



1992

Illinois Register

Rules of Governmental Agencies

Volume 16, Issue 4 — January 24, 1992

Pages 1439-1778

Administrative Code Div.
288 Centennial Bldg.
Springfield, IL 62756
(217) 782-9786

published by
George H. Ryan
Secretary of State



Printed on recycled paper

TABLE OF CONTENTS

PROPOSED RULES

PAGE

EDUCATION, STATE BOARD OF	
Determining Special Education Per Capita Tuition Charge; 23 Ill. Adm. Code 130	1439
Pupil Transportation Reimbursement; 23 Ill. Adm. Code 120	1452
LABOR, DEPARTMENT OF	
Balloon Dart Game Permit Act, The ; 56 Ill. Adm. Code 1700	1469
NUCLEAR SAFETY, DEPARTMENT OF	
Accrediting Persons in the Practice of Medical Radiation Technology; 32 Ill. Adm. Code 401	1474
PRAIRIE STATE 2000 AUTHORITY	
Individual Training Assistance Program; 56 Ill. Adm. Code 5400	1490
PUBLIC AID, DEPARTMENT OF	
Medical Payment; 89 Ill. Adm. Code 140	1492
SECRETARY OF STATE	
Public Building Construction; 71 Ill. Adm. Code 2000	1511

ADOPTED RULES

COMMERCE AND COMMUNITY AFFAIRS, DEPARTMENT OF	
Uniform Fiscal & Administrative Standards for the Job Training Partnership Act; 56 Ill. Adm. Code 2630	1524
POLLUTION CONTROL BOARD	
Existing Activities In A Setback Zone or Regulated Recharge Area; 35 Ill. Adm. Code 615	1538
Introduction; 35 Ill. Adm. Code 601	1585
New Activities In A Setback Zone or Regulated Recharge Area; 35 Ill. Adm. Code 616	1592
Regulated Recharge Areas; 35 Ill. Adm. Code 617	1639
REVENUE, DEPARTMENT OF	
Retailers' Occupation Tax; 86 Ill. Adm. Code 130	1642
TRANSPORTATION, DEPARTMENT OF	
Minimum Safety Standards for Construction of Type I School Buses; 92 Ill. Adm. Code 440	1655
Minimum Safety Standards for Construction of Type II School Buses; 92 Ill. Adm. Code 442	1685

EMERGENCY RULES

PRAIRIE STATE 2000 AUTHORITY	
Individual Training Assistance Program; 56 Ill. Adm. Code 5400	1693

AGENCY NOTICES OF MODIFICATION, WITHDRAWAL OR REFUSAL TO PROPOSED RULES

POLLUTION CONTROL BOARD	
Existing Activities In A Setback Zone or Regulated Recharge Area; 35 Ill. Adm. Code 615, Refusal	1702
Introduction; 35 Ill. Adm. Code 601, Refusal	1713
New Activities In A Setback Zone or Regulated Recharge Area; 35 Ill. Adm. Code 616, Refusal	1723
Regulated Recharge Areas; 35 Ill. Adm. Code 617, Refusal	1734

**JOINT COMMITTEE ON ADMINISTRATIVE RULES - STATEMENT OF OBJECTIONS,
SUSPENSIONS, RECOMMENDATIONS, PROHIBITED FILINGS & APPROVALS**

INSURANCE, DEPARTMENT OF

Minimum Standards for Individual & Group Medicare Supplement Insurance;
50 Ill. Adm. Code 2008, Prohibition.....

1743

**JOINT COMMITTEE ON ADMINISTRATIVE RULES - REVIEW OF EXISTING RULES - STATEMENT
OF OBJECTIONS, SUSPENSIONS & RECOMMENDATIONS**

AGING, DEPARTMENT ON

Community Care Program; 89 Ill. Adm. Code 240, Suspension (Emergency).....

1744

STATE POLICE, DEPARTMENT OF

Firearm Transfer Inquiry Program; 20 Ill. Adm. Code 1235, Objection (Emergency)

1746

PUBLIC HEARINGS

LABOR, DEPARTMENT OF

Balloon Dart Game Permit Act, The; 56 Ill. Adm. Code 1700

1747

NOTICE OF PUBLIC INFORMATION

ILLINOIS ATTORNEY GENERAL

In Conjunction with the Illinois Environmental Protection Agency, Proposed Consent Decree to Resolve
Costs of Site Study & Remedial Work at Kilbourne Avenue Site in Chicago, Illinois

1748

REVENUE, DEPARTMENT OF

Index of Letter Rulings (Third Quarter of 1991) (Income Tax)

1750

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received

1772

EXECUTIVE ORDERS AND PROCLAMATIONS

PROCLAMATIONS

92-001 Lester H. McKeever, Jr. Day.....

1774

92-002 School Social Work Week.....

1774

92-003 V. Glenn and Zada Hunt Day.....

1775

92-004 Catholic Schools Week/National Appreciation Day for Catholic Schools.....

1776

92-005 Great Lakes Challenge Governors Cup Race.....

1776

92-006 Joint Action In Community Service Day.....

1776

92-007 North East Multi-Regional Training-Mobile Team Unit #3 Referendum Notice/Federal
Social Security Act.....

1777

92-008 President Francesco Cossiga Scholar At The Newberry Library Created.....

1778

CUMULATIVE INDEX

1992 Index - Issue #4

CI-1

SECTIONS AFFECTED INDEX

1992 Index - Issue #4

SAI-1

INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. Rulemaking activity consists of proposed or adopted new rules or amendments to or repealers of existing rules, including those by emergency or peremptory action.

The *Register* also contains Executive Orders and Proclamations issued by the Governor, notices of public information required by State statute, and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies. In addition, the *Register* contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current *Register* volume and a Sections Affected Index listing, by Title of the *Illinois Administrative Code*, each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume. Both indices are action coded and are designed to aid the public in monitoring rules.

The *Register* will serve as the update to the *Illinois Administrative Code*, a compilation of the rules of State agencies. The most recent edition of the *Code* along with the *Register* comprise the most current accounting of the State agencies' rules.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, pars. 1001 et seq., as amended).

REGISTER PUBLICATION SCHEDULE 1992

Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:
Dec. 17, 1991	Dec. 24, 1991	1	Jan. 3, 1992	June 23, 1992	June 30, 1992	28	July 10, 1992
Dec. 24, 1991	Dec. 31, 1991	2	Jan. 10, 1992	June 30, 1992	July 7, 1992	29	July 17, 1992
Dec. 31, 1991	Jan. 7, 1992	3	Jan. 17, 1992	July 7, 1992	July 14, 1992	30	July 24, 1992
Jan. 7, 1992	Jan. 14, 1992	4	Jan. 24, 1992	July 14, 1992	July 21, 1992	31	July 31, 1992
Jan. 14, 1992	Jan. 21, 1992	5	Jan. 31, 1992	July 21, 1992	July 28, 1992	32	Aug. 7, 1992
Jan. 21, 1992	Jan. 28, 1992	6	Feb. 7, 1992	July 28, 1992	Aug. 4, 1992	33	Aug. 14, 1992
Jan. 28, 1992	Feb. 4, 1992	7	Feb. 14, 1992	Aug. 4, 1992	Aug. 11, 1992	34	Aug. 21, 1992
Feb. 4, 1992	Feb. 11, 1992	8	Feb. 21, 1992	Aug. 11, 1992	Aug. 18, 1992	35	Aug. 28, 1992
Feb. 11, 1992	Feb. 18, 1992	9	Feb. 28, 1992	Aug. 18, 1992	Aug. 25, 1992	36	Sept. 4, 1992
Feb. 18, 1992	Feb. 25, 1992	10	Mar. 6, 1992	Aug. 25, 1992	Sept. 1, 1992	37	Sept. 11, 1992
Feb. 25, 1992	Mar. 3, 1992	11	Mar. 13, 1992	Sept. 1, 1992	Sept. 8, 1992	38	Sept. 18, 1992
Mar. 3, 1992	Mar. 10, 1992	12	Mar. 20, 1992	Sept. 8, 1992	Sept. 15, 1992	39	Sept. 25, 1992
Mar. 10, 1992	Mar. 17, 1992	13	Mar. 27, 1992	Sept. 15, 1992	Sept. 22, 1992	40	Oct. 2, 1992
Mar. 17, 1992	Mar. 24, 1992	14	Apr. 3, 1992	Sept. 22, 1992	Sept. 29, 1992	41	Oct. 9, 1992
Mar. 24, 1992	Mar. 31, 1992	15	Apr. 10, 1992	Sept. 29, 1992	Oct. 6, 1992	42	Oct. 16, 1992
Mar. 31, 1992	Apr. 7, 1992	16	Apr. 17, 1992	Oct. 6, 1992	Oct. 13, 1992	43	Oct. 23, 1992
Apr. 7, 1992	Apr. 14, 1992	17	Apr. 24, 1992	Oct. 13, 1992	Oct. 20, 1992	44	Oct. 30, 1992
Apr. 14, 1992	Apr. 21, 1992	18	May 1, 1992	Oct. 20, 1992	Oct. 27, 1992	45	Nov. 6, 1992
Apr. 21, 1992	Apr. 28, 1992	19	May 8, 1992	Oct. 27, 1992	Nov. 2, 1992 (Mon)	46	Nov. 13, 1992
Apr. 28, 1992	May 5, 1992	20	May 15, 1992	Nov. 2, 1992 (Mon)	Nov. 10, 1992	47	Nov. 20, 1992
May 5, 1992	May 12, 1992	21	May 22, 1992	Nov. 10, 1992	Nov. 17, 1992	48	Nov. 30, 1992 (Mon.)
May 12, 1992	May 19, 1992	22	May 29, 1992	Nov. 17, 1992	Nov. 24, 1992	49	Dec. 4, 1992
May 19, 1992	May 26, 1992	23	June 5, 1992	Nov. 24, 1992	Dec. 1, 1992	50	Dec. 11, 1992
May 26, 1992	June 2, 1992	24	June 12, 1992	Dec. 1, 1992	Dec. 8, 1992	51	Dec. 18, 1992
June 2, 1992	June 9, 1992	25	June 19, 1992	Dec. 8, 1992	Dec. 15, 1992	52	Dec. 28, 1992 (Mon)
June 9, 1992	June 16, 1992	26	June 26, 1992	Dec. 15, 1992	Dec. 22, 1992	1	Jan. 4, 1993 (Mon)
June 16, 1992	June 23, 1992	27	July 6, 1992 (Mon)	Dec. 22, 1992	Dec. 29, 1992	2	Jan. 8, 1993

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Determining Special Education Per Capita Tuition Charge.
- 2) Code Citation: 23 Ill. Adm. Code 130
- 3) Section Numbers:
 - 130.10 Proposed Action:
 - 130.20 Amendment
 - 130.30 Amendment
 - 130.40 Amendment
 - 130.45 New Section
 - 130.50 Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 122, par. 14-7.01.
- 5) A Complete Description of the Subjects and Issues Involved:

These proposed amendments respond to two pieces of legislation (P.A. 85-423 and P.A. 86-476), as well as incorporating many revisions which we hope will help clarify the rules and make their application more consistent.

P.A. 85-423, which took effect in September of 1987, identified rent as one of the expenses applicable in the calculation of the cost of maintaining and operating a special education program (Section 14-7.01 of the School Code). This change is reflected in Sections 130.30(j) and 130.40(a) of the proposed amendments.

Further, P.A. 86-476 (1989) provided that local education agencies may use health care services whose costs are reimbursed by the federal government, and that they need not deduct the amount of such reimbursements from the cost calculations which are the subject of these rules. Section 130.40(c) (previously labelled (d)) has been amended to reflect these provisions.

In response to the review conducted by school district superintendents, language has been added to Section 130.30(c) to clarify the method for claiming expenditures for equipment, which depends upon the equipment's total cost.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

The remaining changes throughout Part 130 serve either to place into rules existing practices which have so far been implicit rather than explicit; to improve the accuracy of cost calculations; or to make existing stipulations clearer and easier to read. The new Section 130.45 in particular is intended to help local education agencies make the distinction between the per capita cost and the specific cost attributable to an individual pupil.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference?
- 9) Are there any other proposed amendments pending on this Part? No

The rules do not contain an incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act.

10) Statement of Statewide Policy Objectives:

These rules will not create or enlarge a state mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Jon X. Healy
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
(217) 782-3950

- 12) Initial Regulatory Flexibility Analysis: These rules will not affect small businesses.

The full text of the Proposed Rule(s) begins on the next page:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER 1: STATE BOARD OF EDUCATION

SUBCHAPTER C: FINANCE

PART 130

DETERMINING SPECIAL EDUCATION PER CAPITA TUITION CHARGE

Section

130.10 Definitions

130.20 Applicability

130.30 Allowable Expenditures for Determining Per Capita Cost

130.40 Expenditures Not Allowed in the Per Capita Cost

130.45 Calculation of Individual Cost

130.50 Tuition Billing

AUTHORITY: Implementing and authorized by Section 14-7.01 of the School Code (Ill. Rev. Stat. 1989, ch. 122, par. 14-7.01).

SOURCE: Adopted at 11 Ill. Reg. 5942, effective March 23, 1987; amended at ___ Ill. Reg. ___, effective _____.

Section 130.10 Definitions

"Allowable-Expenditures"---Expenditures-used-in computing-a-per-capita-tuition-charge-in-either-Section 10-20-12a-or-Section-14-7-01-of-the-School-Code-(Ill. Rev.-Stat.-1905,-ch.-122,-pars.-10-20-12a;-14-7-01)-

"Average Daily Attendance" - The number of full-time equivalent days a pupil is in attendance in a program divided by the number of days school is in session.

"Average Daily Enrollment" - The For an individual pupil, the number of days a pupil is enrolled in a program divided by the number of days a program is in session, multiplied by the percentage of the school day the pupil participates in the program. For a program, the Average Daily Enrollment is the total of the Average Daily Enrollment figures for all students enrolled in it.

"District Per Capita Tuition Charge" - District expenditures (including allowable depreciation) associated with providing education during the regular

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

school term from local taxes and common school fund monies, calculated by deducting revenues for various state categorical programs as shown on the district's annual financial statement filed in accordance with Section 3-15.1 of The School Code (Ill.-Rev.-Stat.-1905,-ch.-122,-par.-3-15-1), local user fees, and federal receipts, other than federal impact aid, from the operating expense; then dividing the result by the annual average daily attendance of the district.

"Exceptional Pupils" - All handicapped pupils, ages three through 21, as defined in Sections 14-1.02 and 14-1.03a of The School Code (Ill.-Rev.-Stat.-1905,-ch.-122,-pars.-14-1-02-and-14-1-03a) and in 23 Ill. Adm. Code 226 (Special Education).

"Local Education Agency" - A public educational agency at the local level which operates schools or contracts for educational services. This includes school districts, joint-agreements school districts providing services under a joint agreement pursuant to Section 10-22-31a-of The School Code (Ill.-Rev.-Stat.-1905,-ch.-122,-par.-10-22-31a), educational service regions pursuant to Section 3A-1 of The School Code (Ill.-Rev.-Stat.-1905,-ch.-122,-par.-3A-1), educational service centers pursuant to Section 2-3.62 of The School Code (Ill.-Rev.-Stat.-1905,-ch.-122,-par.-2-3-62), and special-education-regional-programs governing boards formed pursuant to Section 10-22.31 or Section 3-15.14 of the School Code.

"Local Educational Facilities" - Buildings, including site sites and site improvements, operated by school districts,-joint-agreements,-educational-service regions,-and/or-special-education-regional-programs a local education agency.

"Program" - Any combination of special education instructional services, supportive services, supplies, materials, physical plant adjustments, and other special educational facilities designated by a local education agency as constituting a specific special education program for purposes of this Part (e.g., behavior disordered, learning disabled, mentally impaired) which also conforms to the requirements set forth in Section 110.50(c)(11) of the Program Accounting Manual (23 Ill. Adm. Code 110).

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

"Special Education" - Those instructional programs, supportive services, supplies, materials, physical plant adjustments, and other special educational facilities described in Article 14 of the School Code (111-Rev-Stat-1985-ch-122-par-14-1-01-et seq.) and 23 Ill. Adm. Code 226 (Special Education), which modify, supplement, support, or are in place of the standard educational program of the public school, and which are needed to meet the needs of exceptional pupils.

"Special Educational Facility and Services" - For the purpose of these regulations, this term is defined as in Section 14-1.08 of the School Code (111-Rev-Stat-1985-ch-122-par-14-1-08).

"Special Education Per Capita Cost" - The average expenditure per eligible pupil incurred by a local education agency in the implementation and maintenance of each special education program (e.g. behavior disorder, learning disabled, mentally impaired, etc.). Such per capita costs shall be computed by dividing the allowable program expenditures by the average daily enrollment of all eligible participating pupils in the manner prescribed in these rules.

"Special Education Pupil Transportation" - Those transportation services which are in addition to the regular pupil transportation services provided by the local education agency, and which are required and provided in accordance with the provisions of 23 Ill. Adm. Code 226 (Special Education).

"Special School" - An educational setting which is established by the local education agency exclusively to meet the needs of exceptional pupils.

"The School Code" - The School Code (Ill. Rev. Stat. 1989, ch. 122, par. 1-1 et seq.)

"Total Number of Pupils Enrolled" - The total enrollment of the local education agency for the school year, as reported to the State Board of Education on the Fall Enrollment and Housing Report.

"Total Number of Special Education Pupils Enrolled" - The total number of pupils reported to the State Board of Education as being enrolled in special education programs on December 1 of a particular year. For

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

special education joint agreements and regional programs, this is the sum of all member districts' enrolled special education pupils as of December 1.

(Source: Amended at ___ Ill. Reg. ___, effective ___)
Section 130.20 Applicability

These rules apply to any local education agency which establishes and maintains special educational facilities and services, attended by exceptional pupils from another local education agency under contractual agreement for tuition charges under Section 14-7.01 of the School Code, and/or is eligible to and makes claim under Sections 14-7.02a and/or 14-7.03 of the School Code (111-Rev-Stat-1985-ch-122-par-14-7.01-14-7.02a and 14-7.03).

These rules apply to:

a) any local education agency, whose special educational facilities and services are attended by exceptional pupils from another local education agency, which does not bill using the District Per Capita Tuition Charge and enters into a contractual agreement which provides for tuition charges as authorized under Section 14-7.01 of the School Code; and to

b) the calculation of claims under Sections 14-7.02a and/or 14-7.03 of the School Code.

(Source: Amended at ___ Ill. Reg. ___, effective ___)

Section 130.30 Allowable Expenditures for Determining Per Capita Cost

a) All local education agencies operating special educational facilities shall maintain evidence of their accountability for funds as prescribed in 23 Ill. Adm. Code 110 (Program Accounting Manual).

b) Accounting dimensions used to record expenditures used in computing per capita costs shall minimally include fund, fiscal year, four-digit function number, and object. Functions and objects must correspond to and be traceable to the official budget and annual financial report of the local education agency.

c) Expenditures for equipment necessary for the operation of a special educational facility either shall be

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

included in the expenditures in the year of purchase. If the total cost is less than \$500, or shall be depreciated on a five-year schedule, if the total cost is \$500 or more. If equipment is purchased solely for the benefit of one pupil and billed in that manner, the district billed is the owner of the equipment.

d) Per capita instructional costs recorded in functions 1201-1214 or 1220 shall be computed by dividing the allowable expenditures, minus individual student costs such as individual aides, by the average daily enrollment of the pupils served in the specific special education program.

e) Expenditures for pupil support services shall be recorded in the functional accounts 2113 (Social Work Services), 2130 (Health Services), 2140 (Psychological Services), 2150 (Speech Pathology and Audiology Services), 2210 (Improvement of Instruction), and 2220 (Educational Media Services) as specified in the 23 Ill. Adm. Code 110 (Program Accounting Manual).

1) Expenditures in each functional area shall be separated as follows:

- A) All expenditures for specific special education programs;
 - B) All expenditures which are incurred in support of all exceptional pupils and which cannot be directly allocated to a specific special education program as required in subsection (e)(1)(A) above; and
 - C) All expenditures which are incurred in support of the general pupil population, including exceptional pupils.
- 2) Per capita pupil support services costs for a specific special education program shall be computed by dividing the allowable expenditures by the average daily enrollment of the pupils served in the program.
- 3) Per capita pupil support services costs incurred in support of all exceptional children shall be computed by dividing the allowable expenditures by the average-daily-enrollment-of-the-pupils-served total number of special education pupils enrolled.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

4) Per capita pupil support services costs incurred in support of the general pupil population shall be computed by dividing the allowable expenditures by the average-daily-attendance-of-the-local-education-agency-pupil-population-served total number of pupils enrolled.

f) Expenditures for administrative services shall be recorded in the functional accounts 2320 (Executive Administrative Services), 2330 (Special Area Administrative Services), 2410 (Office of the Principal Services), 2510 (Direction of Business Support Services), 2520 (Fiscal Services), 2570 (Internal Services), and 2600 (Support Services Central) as specified in 23 Ill. Adm. Code 110 (Program Accounting Manual) and shall be separated as follows:

- 1) Expenditures for special education administration; and
- 2) Expenditures for general administration; and
- 3) Expenditures for special education administration for group orphanage programs operated under the provisions of Section 14-7.03 of the School Code.

g) Per capita special education administration costs incurred in support of all exceptional children shall be computed by dividing the allowable expenditures by the average-daily-enrollment-of-the-pupils-served total number of special education pupils enrolled.

h) Per capita general administration costs incurred in support of the general pupil population shall be computed by dividing the allowable expenditures by the average-daily-attendance-of-the-local-education-agency pupil-population-as-used-for-computing-the-district-per capita-tuition-charge-pursuant-to-Section-10-20-12a-of-the-School-Code total number of pupils enrolled.

i) Expenditures for the operation and maintenance of buildings shall be allocated to each program on-a-per classroom-basis according to the number of classrooms used and the average cost per classroom. The average cost per classroom shall be identified by dividing the total amount of expenditures for operations and maintenance by the total number of classrooms reported

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

to the State Board of Education on the Facility Inventory Report.

j) Depreciation and Rent

1) Depreciation of physical facilities owned by the local education agency shall be calculated using the rate provided in Section 14-7.01 of the the School Code (111 Rev. Stat. 1905, ch. 122, par. 14-7.01). The local education agency may not rent facilities from itself. The depreciation rate specified in Section 14-7.01(f) of the School Code must be applied to all owned facilities. Operations and maintenance costs for owned facilities may be claimed as provided in subsection (i).

2) If the local educational facility is rented by the local education agency, the actual rent paid for the physical facilities is to be divided by the average daily enrollment of the pupils served within the facility. If the rented facility is used for both instructional and administrative functions, the square footage used for instruction shall be divided by the total square footage rented. The result of this division shall be multiplied by the rental fee paid to determine the portion of rent applicable to the program.

k) Per capita interest costs shall be computed by dividing the interest expenditures recorded in function 5100, but not including interest for capital expenditures, by either: the average daily attendance of the local education agency pupil population as used for computing the district per capita tuition charge.

1) the total number of pupils enrolled, if the local education agency serves both special and regular education students; or

2) the total number of special education pupils enrolled, if the local education agency serves only special education students.

1) The local share of twenty percent of the total cost of incurred for special education pupil transportation, net-funded by or such total cost minus reimbursement received during the current year from the State of Illinois under Section 14-13.01(b) of the the School

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Code, whichever is less, may be included in the computation of the per capita cost with the exception of pupil transportation for pupils claimed under Section 14-7.03 of the School Code. However, for for pupils claimed under Section 14-7.03 of the School Code, one hundred percent of the transportation costs for the pupils shall be included in the computation and not claimed for special education pupil transportation reimbursement (111 Rev. Stat. 1905, ch. 122, pars. 14-7.03 and 14-13.01(b)).

m) Non-special education (i.e., regular) program costs charged to other districts must be calculated in accordance with Section 10-20.12a of the the School Code and billed to the resident district based on a percentage of the student's time spent in non-special education classes.

n) Social Security and Illinois Municipal Retirement Fund contributions by the employer; the amounts so recovered shall be returned to the fund(s) from which the expenditures were made.

o) Expenditures for liability insurance; the amounts so recovered shall be returned to the fund(s) from which the expenditures were made.

(Source: Amended at 111. Reg. ___, effective ___)

Section 130.40 Expenditures Not Allowed in the Per Capita Cost

a) Rent for special education buildings or facilities.

b) Food service expenditures may not be claimed for reimbursement under Section 14-7.02(a) or 14-7.03 of the School Code, unless they are directly related to instructional methodology or techniques, for example in homemaking, cooking, or consumer education courses. However, food service expenditures may be billed to the district of residence of a pupil served.

b) c) Expenditures from revenue received from state reimbursement during the current year for special education personnel under Section 14-13.01 of the the School Code (111 Rev. Stat. 1905, ch. 122, par. 14-13.01), allocated to each program based on the number of positions in the program divided by the number of positions claimed for special education personnel reimbursement.

STATE BOARD OF EDUCATION

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

c) Expenditures which are reimbursed from federal sources, except for health care services; the amount of federal reimbursement for such services need not be deducted.

d) Expenditures for life-safety building improvements or asbestos abatement.

e) Expenditures classified (see 23 Ill. Adm. Code 110. Table D) as Capital Outlay (object code 500), except specialized equipment purchased for the specific special education program, which may be included based upon a depreciation schedule of five years.

f) Expenditures for purchased services (object code 300) other than those recorded in accounts 1201-1214 or 1220 (Instruction), 2113 (Social Work Services), 2130 (Health Services), 2140 (Psychological Services), 2150 (Speech Pathology and Audiology Services), 2210 (Improvement of Instruction), and 2220 (Educational Media Services).

g) Expenditures applicable to one student only.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

Section 130.45 Calculation of Individual Cost

a) The individual cost for a specific special education pupil is the per capita cost of the specific special education program in which the pupil is enrolled plus the result of multiplying:

- 1) the serving district's per capita tuition rate as computed per Section 10-20.12(a) of the School Code, by
 - 2) the percentage of the school week the pupil spends in the regular education program, as stated in the pupil's Individualized Education Program (IEP) at the time the pupil entered the specific special education program for the school year being billed or claimed, by
 - 3) the average daily enrollment of the pupil.
- b) When the local education agency providing educational services also provides special transportation services to the pupil, the serving local education agency may

calculate the pupil's transportation cost and add this transportation cost to the tuition bill. These transportation costs, paid by the district of residence, may not be claimed by the serving local education agency under Section 14-13.01(b) of the School Code. The district of residence may claim 20 percent of the transportation cost for the pupil when the pupil's educational costs are claimed for reimbursement under Section 14-7.02(a) of the School Code. However, if the pupil is claimed for reimbursement under Section 14-7.03 of the School Code, 100 percent of the transportation cost may be claimed.

c) The individual costs not included in the per capita cost for the program may be included in the individual cost. These costs are limited to:

- 1) an individual aide for one or two pupils;
- 2) special equipment for one individual pupil;
- 3) specific, unique related services provided for a pupil which are not provided to other pupils in the program, which are not a part of the normal program service configuration, and whose costs are not included in the special education per capita cost for the program.

(Source: Added at ___ Ill. Reg. ___, effective _____)

Section 130.50 Tuition Billing

- a) Each local education agency shall prepare tuition bills which shall include at a minimum least the following:
- 1) The name of the pupil for whom the bill is prepared;
 - 2) The name of the special education program(s) in which the pupil participated;
 - 3) The number of days the pupil was enrolled in the program;
 - 4) The number of days each program was in session; and

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 5) The per capita cost for each program ~~for each pupil in which the pupil participated, including the regular education program;~~
 - 6) The percentage of the school week the pupil participated in the regular education program and the percentages for special education programs, respectively, according to the pupil's current IEP; and
 - 7) The individual service costs.
- b) ~~The amount of tuition shall be the product of the sum of the per capita costs from Section 130-30 of the pupil's program(s) times the number of days the pupil is enrolled divided by the number of days the program is in session (i.e. 77 per capita costs x # of days the pupil is enrolled = # of days the program is in session --tuition bill).~~

Each bill must include a copy of the Special Education Tuition Cost Sheet for the programs in which the pupil participated. Each bill must be calculated in accordance with this Part.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Pupil Transportation Reimbursement
- 2) Code Citation: 23 Ill. Adm. Code 120
- 3) Section Numbers:

120.10	<u>Proposed Action:</u>
120.30	Amendment
120.40	Amendment
120.50	Amendment
120.60	Amendment
120.90	Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 122, par. 29-1 et seq.

5) A Complete Description of the Subjects and Issues Involved:

These amendments clarify cost proration for "nonpersonnel pupil transportation services," as explained in Section 120.90(d). As proposed, costs for pupil transportation services are separated into those for district owned or operated transportation services (Section 120.90(d)) and those for contractual transportation services, formerly referred to as "nonpersonnel pupil transportation services" (Section 120.90(e)). Additionally, Section 120.90(e) contains exceptions to the cost proration requirement in the case of contractual transportation services.

Further clarification throughout these amendments is provided in the proposed change from the use of the word "property" to the use of the word "land." Other additions contained in Section 120.60 are proposed for clarification and to include items that may be annually depreciated.

Finally, Section 120.30(a)(6) is being amended (and Section 120.40(e), eliminated) to clarify under which category reimbursement claims may be made for the transportation of vocational education students between attendance centers and building or other trades skill development sites when the distance between points is less than one and a half miles.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These rules will not create or enlarge a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:
- Jon X. Healy
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
(217) 782-4980
- 12) Initial Regulatory Flexibility Analysis: These rules will not affect small businesses.

The full text of the Proposed Rule(s) begins on the next page:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER C: FINANCE

PART 120

PUPIL TRANSPORTATION REIMBURSEMENT

SUBPART A: SCHOOL REIMBURSEMENT

Section	
120.10	Definitions
120.20	Transportation and Student Discipline
120.30	Pupil Transportation Services Eligible for Reimbursement
120.40	Pupil Transportation Services Not Eligible for Reimbursement
120.50	Reimbursable Direct Operating Costs
120.60	Reimbursable Annual Depreciation Allowances
120.70	Deductions from Direct Operating Costs
120.80	Reimbursable Indirect Cost for Pupil Transportation Services
120.90	Cost Proration Related to Pupil Transportation
120.100	Reimbursement Formulas
120.110	Reporting Requirements
120.120	Computerized Bus Scheduling by Contract
120.130	Seat Back Reimbursement

SUBPART B: CUSTODIAN REIMBURSEMENT FOR PUPIL TRANSPORTATION

Section	
120.200	Definitions
120.210	Custodians Eligible for Reimbursement
120.220	Custodians Not Eligible for Reimbursement
120.230	Responsibilities of Schools
120.235	Responsibilities of Public and Nonpublic Chief Administrative Officers
120.240	Reimbursement
120.245	Responsibilities of the Superintendents of Educational Service Regions
120.250	Dispute Resolution
120.260	Audit and Enforcement

AUTHORITY: Implementing and authorized by Article 29 of the School Code (Ill. Rev. Stat. 1989, ch. 122, par. 29-1 et seq.).

SOURCE: Adopted at 10 Ill. Reg. 19438, effective October 31, 1986; amended at 10 Ill. Reg. 21675, effective December 11, 1986;

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

amended at 12 Ill. Reg. 4147, effective February 5, 1988; amended at 13 Ill. Reg. 7731, effective May 8, 1989; amended at ___ Ill. Reg. ___, effective ____.

NOTE: Capitalization denotes statutory language.

SUBPART A: SCHOOL REIMBURSEMENT

Section 120.10 Definitions

"Buildings" - A district leased, leased/purchased or owned structure or portion of a structure that houses pupil transportation vehicles and/or equipment used for servicing the district's pupil transportation vehicles, such as a school bus storage building or pupil transportation maintenance garage.

"Chief mechanic" - The person who directly supervises the school district's mechanics and maintenance personnel for pupil transportation vehicles and who also performs the duties of school bus mechanic when necessary.

"Contract" - A written agreement between two parties, for a specific period of time and amount for compensation, that is enforceable by law.

"Contractual pupil transportation service" - Pupil transportation services provided for a set fee under a contract with an independent carrier.

"District owned and operated pupil transportation service" - Pupil transportation service provided by a school district that owns and operates the approved safety inspected vehicle(s), exercises managerial control over facilities and personnel used in the pupil transportation service, and also employs and supervises the school bus driver(s).

"Equipment" - Items, other than vehicles, costing \$500 or more and having a useful life of more than one year.

"Independent Carrier" - An individual, partnership, corporation, firm, organization, association or other legal entity not subject to control by a school district, which enters into a contract with a school district to provide pupil transportation services. An entity does not qualify as an independent carrier if

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

its contract with the district requires that it do one or more of the following:

employ existing school district drivers, mechanics, and administrative and clerical personnel;

pay salaries as stipulated by the school district; employ or discharge employees solely at the discretion of the school district; employ specific types and numbers of administrative personnel.

"Lease" - A written contract between two parties whereby the lessee agrees to pay the lessor a specified sum of money for the use of the lessor's transportation equipment, building, land and/or vehicles for a specific period of time with no option to purchase.

"Lease/purchase agreement" - A written contract between two parties whereby the lessee agrees to pay the lessor a specified sum of money for the use of the lessor's transportation equipment, building, land and/or vehicles for a specific period of time, and the contract contains a clause permitting the lessee the option to purchase the equipment and/or vehicles at a specified price within a specified period of time.

"Materials, parts, and supplies" - Items costing less than \$500 or having a useful life of one year or less.

"Principal cost or capital cost" -

For purchased vehicles, equipment, land and/or buildings/property buildings the principal cost is the cash cost (list price less any discount, revenue from sale of district-owned item, and/or trade-in allowance) plus the prior year's undepreciated balance of the traded/sold district-owned vehicle, equipment, land or buildings/property building excluding all financing charges whether explicit or implicit.

For leased or leased/purchased vehicles, equipment, land and/or buildings/property buildings the principal cost is the fair market value of the vehicle, equipment, land and/or

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

building/property building at the time of acquisition.

"Prorated cost" - A cost incurred for multiple functions. In accounting for such cost, the total cost shall be prorated on a verifiable basis among the appropriate account function codes.

"Pupil transportation vehicles" - School buses and other vehicles used for transporting pupils.

"School bus driver" - A person who possesses a valid school bus driver's permit, and drives a pupil transportation vehicle to transport pupils.

"School bus maintenance personnel" - Individuals whose duties are to maintain the district owned or operated pupil transportation vehicles.

"School day" - THAT PERIOD OF TIME WHICH THE PUPIL IS REQUIRED TO BE IN ATTENDANCE AT SCHOOL FOR INSTRUCTIONAL PURPOSES (Section 29-5 of the School Code (Ill. Rev. Stat. 1989, ch 122, par. 29-5)).

"Site improvement" - Any addition or improvement to a site leased, leased/purchased, or owned that is directly related to the district pupil transportation services, including but not limited to, underground fuel storage tanks.

"Transportation Fund" - An accounting entity as described in Section 17-8 of the School Code (Ill. Rev. Stat. 1987, ch. 122, par. 17-8), to account for revenue and expenditures related to pupil transportation services.

"Transportation related building and building maintenance costs" - The portion of depreciation of buildings and site improvements and costs of operation and maintenance of buildings and site improvements directly related to a school district's pupil transportation program. These costs are chargeable to and paid from the Educational Fund or Operations Building and Maintenance Fund as prescribed in Section 17-7 of the School Code (Ill. Rev. Stat. 1987, ch. 122, par. 17-7).

"Transportation supervisory salary costs" - That portion of the salary and related employee benefits of

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

school district employee(s) who are documented as supervising a school district's pupil transportation programs (Regular, Vocational, Special Education and Nonreimbursable). For districts that do not employ a full or part-time transportation supervisor, a superintendent's/director of special education's salary and related employee benefits shall be prorated as detailed in Section 120.80(b)(3) of this Part. These salary and related employee benefit costs shall be paid from the Transportation Fund.

"Useful life" - The period of time during which the item is expected to be suitable for pupil transportation service.

(Source: Amended at Ill. Reg. _____, effective _____)

Section 120.30 Pupil Transportation Services Eligible for Reimbursement

pupil transportation services eligible for reimbursement are listed below:

a) Regular Pupil Transportation Services

1) Transportation services provided for pupils residing at a distance of one and one-half miles or more from the attendance center to which they are assigned.

A) THE DISTANCE SHALL BE MEASURED FROM THE EXIT OF THE PROPERTY WHERE THE PUPIL RESIDES TO THE POINT WHERE PUPILS ARE NORMALLY UNLOADED AT THE ATTENDANCE CENTER TO WHICH THEY ARE ASSIGNED (Section 29-3 of the School Code).

B) IF A PUPIL IS AT A LOCATION WITHIN THE SCHOOL DISTRICT OTHER THAN HIS/HER RESIDENCE FOR CHILD CARE PURPOSES AT THE TIME FOR TRANSPORTATION TO AND/OR FROM SCHOOL, THAT LOCATION MAY BE CONSIDERED FOR PURPOSES OF DETERMINING THE 1 1/2 MILES FROM THE SCHOOL ATTENDED (Section 29-5 of the School Code).

C) SUCH SCHOOL BOARD MAY COMPLY WITH THE PROVISIONS OF THIS SECTION BY PROVIDING FREE TRANSPORTATION FOR PUPILS TO AND FROM AN ASSIGNED SCHOOL AND A PICK-UP POINT LOCATED NOT MORE THAN ONE AND ONE-HALF MILES FROM THE

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

HOME OF EACH PUPIL ASSIGNED TO SUCH POINT
(Section 29-3 of the School Code).

- 2) Transportation services provided for pupils residing within a distance of one and one-half miles from the attendance center to which they are assigned from pickup points at the beginning of the school day and back again at the close of the school day, effective on the date that the Illinois Department of Transportation grants written approval pursuant to 92 Ill. Adm. Code 556 (Rules on Transporting Pupils Where Walking Constitutes a Serious Safety Hazard) that a serious safety hazard exists due to vehicular traffic, for specific areas and specific ages.
- 3) Transportation services provided for nonpublic school pupils when pupil transportation services for the nonpublic school pupils are provided on the same basis as the transportation services for public school pupils as provided in Section 29-4 of the School Code (Ill. Rev. Stat. 1985, ch. 122, par. 29-4).
- 4) Transportation services provided to a pupil who is required for disciplinary reasons to serve a detention period either before or after the school day.
- 5) Transportation which is provided prior to or following voluntary, extracurricular and/or cocurricular activities, including sport practices, club meetings, drama rehearsals, or choral and band practices where such activities are scheduled before or after the school day, qualifies as transportation provided at the beginning or end of the school day and is therefore subject to reimbursement.
- 6) Transportation services provided for pupils between attendance centers during the school day. This includes transportation of vocational pupils between attendance centers or a building or other trades skill development site of less than one and one-half miles.
- b) Vocational pupil transportation services provided during the school day for vocational pupils transported one and one-half miles or more one way from their

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

assigned attendance center to a vocational program located at:

- 1) An area vocational center;
- 2) Another school district; or
- 3) A building or other trades skill development site.
- c) Special education pupil transportation services, including field trips, provided for special education pupils in accordance with Sections 14-7.02 and 14-13.01(b) of the School Code (Ill. Rev. Stat. 1985, ch. 122, par. 14-7.02 and 14-13.01(b)) and with 23 Ill. Adm. Code 226 (Special Education). This includes field trips (community based instruction) when approved by the district's state approved director of special education as defined in 23 Ill. Adm. Code 226.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

Section 120.40 Pupil Transportation Services Not Eligible for Reimbursement

Pupil transportation services not delineated in Section 120.30 of these rules are not eligible for reimbursement. Examples of these include the following:

- a) Pupil transportation services provided under Section 29-3.1 of the School Code to take participants or spectators to or from athletic contests, academic contests, field trips, extracurricular and/or cocurricular activities;
- b) Transportation services provided for pupils at times other than at the beginning or end of the school day, except as provided in Section 120.30;
- c) Pupil transportation services to the extent they are funded by other state or federal programs;
- d) Transportation services provided for regular public and nonpublic school pupils residing less than one and one-half miles from their assigned attendance center for which there is no safety hazard approval by the Department of Transportation (costs of these services shall be determined using the formula detailed in Section 120.100(a)(1)); and

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

e) transportation-services-provided-for-pupils-to vocational-programs-as-set-forth-in-Section-120-90(b) less-than-one-and-one-half-miles-from-their-assigned attendance-center; and

e) Special transportation not approved in accordance with Sections 14-7.02 and 14-13.01(b) of the School Code and 23 Ill. Adm. Code 226 (Special Education).

(Source: Amended at Ill. Reg. _____, effective _____)

Section 120.50 Reimbursable Direct Operating Costs

Reimbursable direct operating costs are listed below:

a) District owned and operated pupil transportation services, including districts which make payments to entities which do not qualify as independent carriers.

1) THE COST OF PHYSICAL EXAMINATIONS FOR SCHOOL BUS DRIVERS REQUIRED FOR THEIR EMPLOYMENT (Section 29-5 of the School Code) pursuant to 23 Ill. Adm. Code 275 (Pupil Transportation) pursuant to 23-23 Ill. Adm. Code 275-(PUPIL TRANSPORTATION).

2) Salaries and/or wages for the following employees:

- A) School bus driver(s);
 - B) School bus maintenance personnel;
 - C) Chief mechanic;
 - D) Special education attendants or aides for that portion of time they assist special education pupils, i.e., for transit time only; and
 - E) Transportation supervisory salary costs when paid from the Transportation Fund as set forth in Section 120.90(b) and (c).
- 3) The cost of the following benefits for the employees enumerated in subsection (2) above (if proration is necessary for salaries and/or wages, benefits shall be prorated in the same manner):
- A) Health insurance;

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

B) Life insurance;

C) Dental insurance;

D) Employee's share-of-municipal retirement contribution, if paid by the employer from the Transportation Fund as part of the transportation supervisory salary costs; and

E) Employee's share-of-teacher Teacher retirement contributions if paid by the employer from the Transportation Fund as part of the transportation supervisory salary costs.

4) Payments made to other school districts for providing pupil transportation services and expenditures consistent with these rules.

5) Contractual payments made to other agencies for computerized bus scheduling when approved under Section 120.120.

6) Payments made for fuel, oil, tires, and other supplies that are necessary for the operation of pupil transportation vehicles.

7) The total cost of converting school bus gasoline engines to more fuel efficient engines or to engines which use alternate energy sources.

8) Expenditures (according to a school district's written travel reimbursement policies) for travel to workshops or meetings conducted by the regional superintendent or the State Superintendent of Education designed to improve the driving skills of school bus drivers.

9) Expenditures for contractual maintenance services including materials, parts, supplies and labor necessary for the operation of pupil transportation vehicles.

10) Expenditures for lease agreements for pupil transportation vehicles, for lease/rental of less than 30 days.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 11) Expenditures for insurance, license plates, and inspection fees pertaining to pupil transportation vehicles.
- 12) Expenditures for the rental of pupil transportation equipment.
- 13) Transportation related building, land and building maintenance costs. The prorated costs of operation and maintenance of buildings, as set forth in Section 120.90(g), when directly related to pupil transportation services including:
 - A) Utility costs;
 - B) Custodial supplies and services;
 - C) Insurance for building(s) and/or for site improvement(s);
 - D) Security services;
 - E) Telephone charges incurred for the transportation program; and
 - F) Lease or rental of property land or buildings for storing or maintaining transportation vehicles when leased for less than 30 days.

b) Contractual pupil transportation services

- 1) The cost of contractual pupil transportation services, which shall be limited to the following types:
 - A) Payments to independent carriers;
 - B) Payments to parents, guardians, or adult residents of the district for transporting special education pupils only, when such transportation is provided in accordance with Sections 14-7.02 and 14-13.01(b) of the School Code (Ill. Rev. Stat., 1985, Ch. 122, pars. 14-7.02 and 14-13.01(b)) and the provisions of Special Transportation in 23 Ill. Adm. Code 226 (Special Education).

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 2) Contractual payments made to other agencies for computerized bus scheduling when approved under Section 120.120.
- 3) Payments made for fuel, oil, tires, and other supplies that are as necessary for the operation of pupil transportation vehicles as the items specified in this Section.
- 4) Transportation supervisory salary costs as allowed in Section 120.50(a)(2)(E)7 and ~~{3}{B}~~ of this Part (a)(3)(D) and (E).
- 5) Transportation related building, land and building maintenance costs as allowed in Sections 120.50(a)(13), and 120.60(d) and (e) of this Part.

(Source: Amended at __ Ill. Reg. ____, effective ____)

Section 120.60 Reimbursable Annual Depreciation Allowances

- a) Annual depreciation allowances shall be based on the principal cost of pupil transportation vehicles or equipment for items costing \$500 or more and with a useful life in excess of one year.

- 1) When a vehicle and/or equipment costing \$500 or more is purchased, leased for 30 days or more, or leased/purchased any time during the fiscal year, a full year's depreciation is claimable for that year.
- 2) When a vehicle and/or equipment is sold, destroyed, or traded-in any time during the fiscal year, no depreciation may be claimed for that year.
- 3) Vehicles and/or equipment leased for 30 days or more, leased/purchased or purchased, and sold or destroyed within the same fiscal year must use a prorated principal cost based on the following formula:

(Principal costs divided by 12 months) X number of months in possession of the district = prorated principal cost.
- b) Pupil transportation vehicles that are purchased, leased/purchased, or leased for 30 days or more by the

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- district shall be subject to a 20 percent annual depreciation allowance based on the principal cost.
- c) Pupil transportation equipment not installed in the vehicle that is purchased or leased/purchased or leased for more than 30 days by the district shall be subject to a ten percent annual depreciation allowance based on the principal cost.
- d) The depreciation of buildings/property (including additions to existing buildings) that are purchased, leased/purchased, or leased for more than 30 days, is based on an annual depreciation rate of 2% 2 percent of the principal cost. Building improvements are depreciated at a rate of 5 percent of the principal cost.
- e) A Repairs repair or modifications modification to a pupil transportation vehicles vehicle costing \$500 or more per item and extending the useful life of the vehicle by more than one year must be capitalized and shall be subject to a 33 1/3 percent annual depreciation allowance.
- f) Depreciation of site improvement(s) costing \$500 or more and having a useful life of more than one year, made to the building(s) or property land used for pupil transportation purposes, is subject to a five percent annual depreciation allowance based on the principal cost, including installation fees.
- g) Depreciation of two-way transportation vehicle communication systems costing \$500 or more per office or bus is based on an annual rate of 10 percent of the principal cost.
- h) Depreciation of pupil monitoring equipment, including video cameras costing \$500 or more per bus, installed on school buses is based on an annual rate of 33 1/3 percent of the principal cost.
- i) Depreciation of a service vehicle (such as a tow truck), costing \$500 or more, that is used to service pupil transportation vehicles is based on an annual rate of 10 percent of the principal cost.

(Source: Amended at ___ Ill. Reg. ___, effective ___)

Section 120.90 Cost Proration Related to Pupil Transportation

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- a) When costs or depreciation allowances are to be prorated among pupil transportation services and other nontransportation related activities, the categories used shall constitute:
- 1) Regular pupil transportation services;
 - 2) Vocational pupil transportation services;
 - 3) Special education pupil transportation services;
 - 4) Nonreimbursable pupil transportation services; and
 - 5) Nontransportation related activities.
- b) If an employee performs multiple job duties (e.g., district/cooperatives employing a part-time transportation supervisor/director) and at least one job duty is reimbursable under pupil transportation, the salary and district paid employee benefits for such employee shall be prorated to each type of job duty based on the ratio of the number of hours worked in each job to the total hours worked.
- c) The formula for computing the district superintendent and/or joint agreement director expenses as permitted in Section 120.50 (a) (2) (E), 120.50(a) (3), or 120.80(b) (3) is listed below.
- 1) The district superintendent allowable expenditures shall be prorated based on the ratio of the total transportation fund expenditures to the district's total operating expenditures of all funds. The district's total operating expenditures are to be calculated in the Illinois Local Education Agency Annual Financial Report pursuant to 23 Ill. Adm. Code 110 (Program Accounting Manual).
 - 2) The joint agreement/cooperative director allowable expenditures shall be prorated based on the ratio of the transportation fund total expenditures/disbursements and transfers to the joint agreement/cooperative total expenditures/disbursements and transfers. The joint agreement/cooperative total expenditures/disbursements and transfers are to be calculated in the Joint Agreement Annual Financial Report.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

h) 97

Expenditures charged to the Operations/Maintenance Fund and/or the Education Fund that are directly related to the Pupil Transportation Program Services may be claimed as direct cost reimbursement from the transportation program. When the district or joint agreement cannot substantiate the portion of the cost applicable to the pupil transportation program, the expenditures shall be allocated according to the square footage of the bus garage divided by the total square feet of all the district owned buildings and that result multiplied by the total expenditures of each allowable cost. The transportation portion of each allowable cost that is under \$500 or which has a useful life less than one year is claimed under Section 120.50(a)(13).

(Source: Amended at ___ Ill. Reg. ___, effective ___)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

d) Nonpersonnel pupil transportation services costs shall be prorated based on the ratio of miles traveled in each category to the total miles traveled in all categories. District owned/operated transportation systems must prorate all expenses based on the ratios of miles traveled in each category to the total miles traveled in all categories operated by the district. This method of proration includes Salaries and Employee Benefits, unless the district can document the number of hours worked per category to the total number of hours worked per person.

e) Payments for all contractual transportation services must be prorated based on miles across contract categories, with the exception of the following:

- 1) Contracts with a company which provides only one type of transportation service;
- 2) Payments to parents/guardians who provide transportation;
- 3) Payments to a contractor by a district for costs that are part of a contractual agreement between a cooperative or joint agreement and the contractor;
- 4) Transportation expenses related to services provided by taxi/limousine companies;
- 5) Expenses related to a district contracting with another district for one type of transportation service; and
- 6) Expenses related to services provided by mass transit systems.

f) If a pupil transportation vehicle is used for more than one category of transportation service, the depreciation allowance shall be prorated based on the ratio of the number of miles traveled in each category of service to the total miles traveled in all categories.

g) Indirect cost shall be prorated based on the ratio of the number of miles traveled in each category to the total miles traveled in all categories.

DEPARTMENT OF LABOR

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: The Balloon Dart Game Permit Act
- 2) Code Citation: 56 Ill. Adm. Code 1700
- 3) Section Numbers:
- | | |
|---------|-------------------------|
| 1700.10 | <u>Proposed Action:</u> |
| 1700.20 | New Section |
| 1700.30 | New Section |
| 1700.40 | New Section |
| 1700.50 | New Section |
| 1700.60 | New Section |
- 4) Statutory Authority: Implementing and authorized by Public Act 87-0693.
- 5) A Complete Description of the Subjects and Issues Involved: This rule protects the general public using and the employees of a balloon dart game from injuries caused by rebounding darts.
- 6) Will this Proposed Rule Replace an Emergency Rule Currently in Effect? No.
- 7) Does this Rulemaking Contain an Automatic Repeal Date? No.
- 8) Does this Proposed Rule Contain Incorporations by Reference? Yes.
- 9) Are there any other Proposed Amendments Pending on this Part? No.
- 10) Statement of Statewide Policy Objectives: This rule has no impact on local governments.
- 11) Time, Place and Manner in which Interested Parties May Comment on this Proposed Rulemaking: A public hearing will be held at 2 p.m., February 27, 1992, at the Illinois Department of Labor, #1 W. Old State Capitol Plaza, Room 300, Springfield, Illinois. Written and/or oral testimony will be accepted at that time.

Persons desiring to submit written comments may do so within 45 days of this notice. All correspondence should be addressed to:

Carl Kimble, Chief Inspector
Carnival & Amusement Ride Division
Illinois Department of Labor
#1 W. Old State Capitol Plaza, Room 300
Springfield, Illinois, 62701
Telephone: (217) 782-9347

DEPARTMENT OF LABOR

NOTICE OF PROPOSED RULES

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to Business Assistance Office of the Department of Commerce and Community Affairs: January 15, 1992.
- B) Types of small business affected: This rule will affect the operators of all dart games which use balloons as targets.
- C) Reporting, bookkeeping and other procedures required for compliance: All permittees must comply with the permit and safety requirements, plus report any serious injury that occurs.
- D) Types of professional skills necessary for compliance: None.

The full text of the Proposed Rule(s) begins on the next page.

DEPARTMENT OF LABOR

NOTICE OF PROPOSED RULES

TITLE 56: LABOR AND EMPLOYMENT

CHAPTER I: DEPARTMENT OF LABOR

SUBCHAPTER d: GENERAL RULES

PART 1700

BALLOON DART GAME PERMIT ACT

- Section 1700.10 Definitions
- 1700.20 Application for a Permit to Operate
- 1700.30 Permit and Inspection Fees
- 1700.40 Safety Requirements
- 1700.50 Operator Requirements
- 1700.60 Reports

AUTHORITY: Amending and authorized by the Balloon Dart Game Permit Act (P.A. 87-0685, effective September 23, 1991).

Source Note: Adopted at Ill. Reg. _____, effective _____.

Note: Capitalization denotes statutory language.

Section 1700.10 Definitions

In additions to those definitions found in Section 5 of the Balloon Dart Game Permit Act (the Act), the following definitions shall apply for the purposes of these regulations:

- "ANSI" is the abbreviation for the American National Standards Institute, 1130 Broadway, New York, New York 10018.
- "Director" means the Director of Labor for the State of Illinois or their designee.
- "Operator" means any employee or person conducting a balloon dart game.
- "Permittee" means the person or organization holding the permit to operate.
- "Serious injury" means an injury for which treatment by a licensed physician is required.

Section 1700.20 Application for a Permit to Operate

- a) No balloon dart game shall be operated for public use without a permit having been obtained from the Director.

DEPARTMENT OF LABOR

NOTICE OF PROPOSED RULES

Section 1700.20 Application for a Permit to Operate (Cont'd.)

- b) The application shall be made on forms provided by the Director and be accompanied by the correct fee.
- c) All applications must be received at least 10 working days prior to the requested opening date.
- d) If a balloon dart game is going to be operated at more than one location during the life of the permit, the application must be accompanied by a list showing the dates and locations of the operation.

Section 1700.30 Permit and Permit Fees

- a) The permit fees under this Act are:
- 1) One event/one location/seven days maximum: \$20.00
- 2) 30 day permit: \$50.00
- 3) Annual Permit: \$100.00
- b) The annual permit will expire one year from date of issue.
- c) The permit must be conspicuously displayed at all times.

Section 1700.10 Safety Requirements

- a) THE PERMITTEE SHALL CONSPICUOUSLY POST A SIGN THAT STATES "DARTS CAN REBOUND". This sign must be at least 8 1/2 x 11 in size and be printed in contrasting colors (Section 15 of the Act).
- b) A MINIMUM DISTANCE OF 7 FEET SHALL BE MAINTAINED BETWEEN THE PLACE WHERE THE PARTICIPANT THROWS THE DARTS AND THE TARGETS. (Section 15 of the Act).
- c) ALL TARGETS MUST BE CLEAR OF ALL OBSTRUCTIONS BY A MINIMUM OF 6 INCHES (Section 15 of the Act).
- d) All darts must be weighted, balanced and have no frayed, broken or missing feathers. The use of plastic tipped darts is prohibited.
- e) The dart board shall be in good condition and made of Celotex or other material soft enough to be easily penetrated by darts thrown in a half-circle arc.

DEPARTMENT OF LABOR

NOTICE OF PROPOSED RULES

Section 1700.40 Safety Requirements (Cont'd.)

- f) The balloons shall be mounted to the dart board with small headed pins to prevent damage to the point of the darts and lessen the possibility of the darts rebounding.

Section 1700.50 Operator Requirements

- a) The operator shall be at least 16 years of age (The Child Labor Law, Ill. Rev. Stat. 1989, ch. 48, par. 31.1).
- b) The operator SHALL WEAR SAFETY EYE PROTECTION WITH PERIPHERAL SHIELDING at all times. The eye protection and peripheral shielding shall conform to ANSI Z87.1-1974. This Standard is hereby incorporated by reference and does not include any later editions, amendments or corrections.

Section 1700.60 Reports

- a) All serious injuries should be immediately reported to the Department of Labor and shall be reported no later than the close of business on the next scheduled business day.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: ACCREDITING PERSONS IN THE PRACTICE OF MEDICAL RADIATION TECHNOLOGY

2) Code Citation: 32 Ill. Adm. Code 401

<u>Section Number:</u>	<u>Proposed Action:</u>
401.70	Amendment
401.110	Amendment
401.130	Amendment
401.140	Amendment
401.150	New Section
401.160	Amendment
401.APPENDIX B	New Section
401.APPENDIX C	

- 4) Statutory Authority: Implementing and authorized by Sections 5, 6, 7 and 36 of the Radiation Protection Act of 1990 (P.A. 87-604, effective September 18, 1991).

- 5) A Complete Description of the Subjects and Issues Involved: The Department is proposing these amendments to establish training requirements specific to mammography that must be satisfied by radiologic technologists who perform mammography procedures. This modification will implement P.A. 87-604, which amended the Radiation Protection Act of 1990 to require the Department to establish, by rule, training requirements specific to mammography that must be satisfied by radiologic technologists who perform mammography procedures. The training requirements are set forth in Section 401.160 and the list of required subjects is included as new Appendix C.

In addition, the Department is proposing to modify Section 401.70 to recognize that, provided it is passed after January 1, 1991, the examination given by the American Registry of Clinical Radiography Technologists may be used to satisfy the examination requirement for medical radiography accreditation. Section 401.110 is being modified to specify how the Department will establish expiration dates for accreditation that is renewed before the expiration date of the previous accreditation and for accreditation that is renewed after the previous accreditation has lapsed or has been surrendered. Section 401.130 is being amended to delete fees that were in effect prior to January 1, 1991, as this provision is obsolete. Section 401.140 is being modified to put a ceiling on the amount of continuing education effort that must be satisfied by technologists who have allowed their accreditation to lapse; to allow technologists, under certain circumstances to obtain some of their required continuing education after reinstatement of their accreditation. This Section is also being modified to allow the Department to permit an individual to perform radiologic technology

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED AMENDMENT

- B) Types of small businesses affected: This rule will affect providers of mammography services that allow radiologic technologists to perform the mammography procedures. This rule may also affect other medical offices and clinics that provide radiography services and nuclear medicine services.
- C) Reporting, bookkeeping or other procedures required for compliance: No reporting, bookkeeping, or other procedures would be required for compliance.
- D) Types of professional skills necessary for compliance: Competence in radiologic technology is necessary for compliance with this rule. In addition, radiologic technologists that perform mammography procedures must also have training in such procedures.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED AMENDMENT

procedures, for up to 90 days, while an application for renewal is pending, provided that the applicant has demonstrated compliance with all requirements for renewal except the continuing education requirement. This change is intended to allow the applicant additional time to file documentation of continuing education effort.

Section 401.150 is being modified to delete the reference to Podiatric Radiographic. Such individuals are no longer required to be accredited by the Department.

- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 60 days following publication of this notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 60 day comment period. Comments should be submitted to:

Betsy Salus
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
785-9881

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: January 7, 1992

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED AMENDMENT

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 401
ACCREDITING PERSONS IN THE PRACTICE OF MEDICAL RADIATION TECHNOLOGY

Section

- 401.10 Policy and Scope
401.20 Definitions
401.30 Exemptions
401.40 Application for Accreditation
401.50 Categories of Accreditation
401.60 Examination Requirements
401.70 Acceptable Examinations
401.80 Approved Program
401.90 Practice Requirement - Initial Licensure (Repealed)
401.100 Initial Issuance of Accreditation
401.110 Duration of Accreditation
401.120 Suspension and Revocation of Accreditation
401.130 Fees
401.140 Requirements for Renewal of Accreditation
401.150 Reciprocity
401.160 Minimum Course of Education (Repealed) Additional Requirements for Radiographers Performing Mammography
401.170 Civil Penalties
401.170 APPENDIX A Limited Diagnostic Radiography Procedures by Type of Limited Accreditation
401.170 APPENDIX B Example Topics Directly Related to Radiologic Sciences
401.170 APPENDIX C Minimum Training Requirements for Radiographers Performing Mammography

AUTHORITY: Implementing and authorized by Sections 5, 6, 7 and 36 of the Radiation Protection Act of 1990 (P.A. 87-604, effective September 18, 1991).

SOURCE: Adopted at 7 Ill. Reg. 17318, effective January 1, 1984; Emergency amendment at 8 Ill. Reg. 17584, effective September 12, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 2499, effective February 13, 1985; amended at 10 Ill. Reg. 13259, effective July 28, 1986; amended at 10 Ill. Reg. 21086 effective January 1, 1987; amended at 11 Ill. Reg. 15623, effective September 11, 1987; Emergency amendment at 11 Ill. Reg. 19797, effective November 24, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 7603, effective April 18, 1988; amended at 12 Ill. Reg. 18164, effective January 1, 1989; amended at 13 Ill. Reg. 15005, effective September 11, 1989; amended at 14 Ill. Reg. 15341, effective September 4, 1990; amended at 15 Ill. Reg. 7054, effective

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED AMENDMENT

April 29, 1991; amended at ___ Ill. Reg. ___, effective ___.

Section 401.70 Acceptable Examinations

a) The Department shall accept for issuance of Active Status Accreditation, examinations as identified by this Section. Accreditation shall be specific to the category of examination as specified in subsection (b) of this Section.

b) Examinations as appropriate to category of accreditation are as follows:

- 1) Medical Radiography
- A) - The American Registry of Radiologic Technologists (R) (A.R.R.T.) - or

AGENCY NOTE: Graduation from an approved program as set forth in Section 401.80(a) is a prerequisite for sitting the A.R.R.T. examination.

- B) The American Registry of Clinical Radiography Technologists (A.R.C.R.T.) provided that the applicant passed the A.R.C.R.T. examination after January 1, 1991, and the applicant has graduated from an approved program as set forth in Section 401.80(a).

2) Nuclear Medicine Technology

- The American Registry of Radiologic Technologists (N) (A.R.R.T.), the Nuclear Medicine Technology Certification Board (N.M.T.C.B.), the American Society of Clinical Pathologists (NM) (A.S.C.P.).

3) Radiation Therapy Technology

- The American Registry of Radiologic Technologists (T) (A.R.R.T.).

4) Chiropractic Radiography

- American Chiropractic Registry of Radiologic Technologists (ACRRT), provided that the examination was administered after June 30, 1984.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENT

- c) Examinations in Limited Diagnostic Radiography - Applicants for accreditation in one or more areas of limited diagnostic radiography shall have passed a written examination on general radiography topics and a written or practical examination specific to the type of limited accreditation sought. All written examinations shall be approved by and scheduled through the Department. The passing score for written examinations shall be a scaled score of 75 percent. All practical examinations shall cover items prescribed by the Department. Practical examinations may be administered by a technologist who holds active accreditation in radiography and is a full-time faculty member of an approved program as defined in Section 401.80 or by a licensed practitioner, certified as a radiologist by the American Board of Radiology, the American Osteopathic Board of Radiology, or the American Chiropractic Board of Radiology. Practical examinations shall be graded on a pass/fail basis on forms provided by the Department.

- d) For Active Status Accreditation, examinations by other certifying organizations shall be accepted upon written request to the Department, provided that the Department finds that the certifying organization has met the National Commission for Health Certifying Agencies (NCHCA) requirements. (Publication Title: Perspectives on Health Occupational Credentialing) Contract #232-78-0187, dated September 30, 1979, DHHS Publication No. (HRA) 81-4, U.S. Government Printing Office, Washington, D. C. 20402.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

Section 401.110 Duration of Accreditation

- a) The duration of initial issuance of Active Status Accreditation, regardless of the category of medical radiation technology, shall be two (2) years. Active Status Accreditation shall be renewable for periods of two years in accordance with meeting the requirements in Section 401.140.
- b) The duration of Temporary Accreditation shall not exceed two years for the categories of Radiography, Nuclear Medicine Technology, or Radiation Therapy Technology and shall not exceed one year for Chiropractic Radiography. Temporary Accreditation shall not be renewed.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENT

- c) The duration of initial issuance of Conditional Accreditation Type I shall be two years and shall be renewable thereafter for periods of two years. Such renewal shall be based on a re-evaluation by the Department of a condition of community hardship and meeting the requirements of Section 401.140.
- d) The duration of initial issuance of Conditional Accreditation Type II shall be two years. This accreditation shall be renewable for periods of two years in accordance with meeting the requirements in Section 401.140. The renewed accreditation shall be specific to the procedures and equipment indicated in the most recent Statement of Assurance which has been presented to the Department in accordance with Section 401.100(d).
- e) The duration of initial issuance of accreditation in Limited Diagnostic Radiography shall be two years. This accreditation shall be renewable for periods of two years in accordance with meeting the requirements in Section 401.140.
- f) The expiration date of a renewed accreditation that has been renewed on or before the expiration of the previous accreditation shall be two years from the expiration date of the previous accreditation. For renewal of accreditation that has lapsed, or that has been surrendered, the expiration shall be two years from the last day of the month in which the application for renewal is processed.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

Section 401.130 Fees

- a) The fees for accreditation in all categories shall be non-refundable and shall be as follows:
- 1) For applications filed before January 1, 1991:
- A) ~~Initial Accreditation~~ Active, Conditional or Temporary Status: \$30.00 per application
- B) ~~Renewal of Accreditation~~ Active and Conditional Status: \$30.00 per application

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED AMENDMENT

- 2) ~~For applications filed on or after January 1, 1991:~~
- A 1) Initial Accreditation - Active, Conditional, Temporary or Limited Status: \$40.00 per application
- B 2) Renewal of Accreditation - Active, Conditional, or Limited Status: \$40.00 per application
- 3 b) Examination fee for Limited Diagnostic Radiography Accreditation shall be \$30.00.
- b c) The appropriate fees are to accompany the application when filing with the Department. An application is filed on the date that it is received by the Department or on the date that it is postmarked by the United States Postal Service, whichever is earlier.

(Source: Amended at Ill. Reg. _____, effective _____)

Section 401.140 Requirements for Renewal of Accreditation

a) Prerequisites

- 1) An individual must make application for renewal of accreditation on or before the expiration date of the accreditation. Accreditation shall lapse if not renewed within this time period. An individual may not legally perform medical radiation technology without valid accreditation, or without the expressed approval of the Department during such time as an application may be pending. Such approval shall be limited to the applicant who meets all requirements for initial accreditation and requires additional time for the filing of continuing education records. The duration of such approval shall not exceed 90 days. Nothing in this Section shall be interpreted to preclude an individual from seeking the renewal of lapsed accreditation.
- 2) Each applicant shall submit a complete and legible application with the fee for renewal of accreditation in accordance with Section 401.130. Submission of an application for renewal shall hold the prior accreditation valid until such time as the Department acts to grant or deny renewal of accreditation. The Department will grant or

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED AMENDMENT

deny renewal of accreditation within ninety (90) days of receipt of application for renewal.

b) Continuing Education Requirements

All applicants for renewal of accreditation, regardless of the category or status of accreditation sought to be renewed, must provide evidence of having participated in an approved program of continuing education as indicated below:

- 1) The required effort in continuing education per year for each category of medical radiation technology, applicable to each year elapsed since the most recent date of issuance of accreditation, not to exceed two years beyond the expiration of the last accreditation, is as follows:

A) Radiography	12 units
B) Nuclear Medicine Technology	12 units
C) Radiation Therapy Technology	12 units
D) Chiropractic Radiography	12 units
E) Limited Diagnostic Radiography	6 units

2) An applicant who:

- A) surrenders his/her accreditation shall meet the requirements set forth in subsection (b)(1) but shall not be held responsible for continuing education for the period beyond the date which such accreditation was surrendered.
- B) can provide evidence that he/she has not been employed to perform radiation procedures in this State during periods of lapsed accreditation shall not be held responsible for continuing education for periods of such lapsed accreditation but shall be responsible for continuing education requirements accrued during the period for which the most recent accreditation was valid.
- C) applies for renewal of accreditation and meets either provision in subsection (b)(2)(A) or (b)(2)(B) shall have completed 12 of the hours of continuing education required by subsection (b)(1) for renewal within one

ILLINOIS REGISTER
DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED AMENDMENT

year preceding the application for renewal or within 90 days after the submission of the application if approved by the Department. Such approval by the Department shall be granted only for reasons of deficient continuing education.

23) The continuing education effort may be averaged during the period to which the requirement applies and shall be prorated by month. Individual courses may be applicable to more than one category of accreditation. The Department will base its approval on the relevance of the course work or training to the category or categories of current accreditation. In establishing relevancy, the Department will use standards such as are accepted by Verification of Involvement in Continuing Education (V.O.I.C.E.), Evidence of Continuing Education (E.C.E.), Continuing Medical Education (C.M.E.), and Continuing Education Units (C.E.U.). The Department will also accept relevant course work from accredited colleges and universities to satisfy this requirement.

34) Credit for continuing education other than as indicated above shall be granted by the Department if the individual or activity sponsor seeks approval of the course or activity and the Department finds that the course or activity will be consistent with courses approved in accordance with Section 401-140(b)(1) subsection (b)(11).

45) The basis for a unit of continuing education credit shall be the contact hour (50 minutes) of lecture. Activity other than lecture shall be approved for credit by the Department based upon the standards of subsection (b)(23).

56) In each category of accreditation the applicant for renewal shall have completed a minimum of 6 units of continuing education for each year elapsed since the most recent date of issuance of accreditation, not to exceed two years beyond the expiration of the most recent accreditation, in continuing education in subject matter directly related to radiologic sciences in the applicant's specific category of accreditation. The balance of the requirement may be accomplished either in subject matter directly related to radiologic sciences or in subject matter directly related to patient care in the radiologic environment.

ILLINOIS REGISTER
DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED AMENDMENT

AGENCY NOTE: Applicants may refer to 401-Appendix B for examples of specifically related continuing education subjects by category.

c) Nonrenewal of Accreditation

1) The Department shall not renew an individual's accreditation if he/she fails to present satisfactory evidence that he/she possesses the necessary qualifications for accreditation, and that he/she has participated in an approved continuing education program in accordance with this Part.

2) If the Department does not find satisfactory evidence that the individual meets these requirements, the Department shall, within ninety (90) days of receipt of the application for renewal of accreditation, send the individual a Notice of Intent Not to Renew Accreditation. This notice shall include the area(s) of deficiency and the individual's rights as set forth in this Section.

3) The individual may, within fifteen (15) days of the date of receipt of the Notice of Intent Not to Renew Accreditation, resubmit an application for renewal of accreditation which provides additional information to the Department in order to establish that the identified area(s) of deficiency have been met or corrected. The Department shall act upon such resubmission within thirty (30) days of receipt. Submission of such an application shall hold the prior accreditation valid until the Department acts on the application.

4) After receipt of a Notice of Intent Not to Renew Accreditation in accordance with subsections (c)(2) or (c)(3), the individual may request a hearing. Such request must be made within thirty (30) days of the date of receipt of the Notice of Intent Not to Renew Accreditation. The hearing shall be held in accordance with 32 Ill. Adm. Code 200, except that the applicant shall have the burden of proof of establishing that he/she has met the necessary qualifications for renewal of accreditation. Submission of a request for a hearing shall hold the prior accreditation valid until the individual's receipt of a decision pursuant to the hearing.

5) If the applicant does not request a hearing within thirty (30) days of receipt of a Notice of Intent Not to Renew Accreditation in accordance with subsections (c)(2) or (c)(3), the Department shall issue a Notice of Nonrenewal.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENT

- 6) An individual's current credential shall be invalid as of the date of his/her receipt of a Notice of Nonrenewal pursuant to subsection (c)(5) or a decision issued after a hearing in accordance with subsection (c)(4) ~~of this Section.~~
- 7) If an individual's accreditation is not renewed, he/she shall have the right at any time to submit an application for renewal of accreditation. Such application shall be reviewed and processed in accordance with the requirements of this Section except that an individual may not legally apply ionizing radiation to human beings until and unless the Department has acted to grant such application for renewal of accreditation.

(Source: Amended at ___ Ill. Reg. ___, effective _____)
Section 401.150 Reciprocity

The Department shall accredit an out-of-state applicant provided that:

- a) The applicant holds a current credential as a Medical Radiographer, Nuclear Medicine Technologist, Radiation Therapy Technologist, or Chiropractic Radiographic Assistant ~~or Pediatric Radiographic Assistant~~ issued by another state or jurisdiction; and
- b) The standards and procedures for credentialing in the state or jurisdiction which issued the credential afford the same or comparable credentialing standards as those afforded by the Illinois statute and regulations; and
- c) The applicant presents the credential to the Department; and
- d) The applicant submits the appropriate application fee in accordance with Section 401.130.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

Section 401.160 Additional Requirements for Radiographers Performing Mammography

- a) After September 18, 1992, in addition to meeting the accreditation requirements set forth in this Part, any medical radiographer who performs mammography shall have completed the required minimum

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENT

- initial training in mammography as identified in 401.Appendix C prior to performing mammography.
- b) A medical radiographer who performs mammography procedures shall engage in continuing education directly related to mammography at the rate of 8 contact hours within each 24 month period after meeting the initial mammography training requirement. Subjects identified in 401.Appendix C shall be considered directly related to mammography and may be utilized to meet the continuing education requirements of Section 401.140(b).
- c) Programs, courses or other activities intended to meet the requirement for initial mammography training, or continuing education in mammography, shall be approved by the Department.
- d) Completion of initial mammography training, and continuing education in mammography, shall be verified to the Department.

AGENCY NOTE: For additional requirements for facilities who perform mammographic procedures see 32 Ill. Adm. Code 360.71.

(Source: Section repealed at 9 Ill. Reg. 2499, effective February 13, 1985; new section adopted at ___ Ill. Reg. ___, effective _____)

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED AMENDMENT

Section 401.APPENDIX B Example Topics Directly Related to Radiologic Sciences
As referenced in Section 401.140(b)(56), applicants may refer to this Appendix for subjects relating directly to radiologic sciences in completing the minimum requirements for continuing education.

RADIOGRAPHY	NUCLEAR MEDICINE	RADIATION THERAPY	LIMITED RADIOGRAPHY
Medical Ethics	Medical Ethics	Medical Ethics	Medical Ethics
Medical Terminology	Medical Terminology	Medical Terminology	Medical Terminology
Human Structure & Function	Human Structure & Function	Human Structure & Function	Human Structure & Function
Radiobiology	Radiobiology	Radiobiology	Radiobiology
Radiation Physics	Radiation Physics	Radiation Physics	Radiation Physics
Radiographic Pathology	Radiographic Pathology	Radiographic Pathology	Radiographic Pathology
Principles of Protection	Principles of Protection	Principles of Protection	Principles of Protection
Radiographic Procedures			Radiographic Procedures
Principles of Exposure	Principles of Exposure	Principles of Exposure	Principles of Exposure
Film Processing	Film Processing	Film Processing	Film Processing
Quality Assurance	Quality Assurance	Quality Assurance	Quality Assurance
Imaging Equipment	Imaging Equipment		Imaging Equipment
Introduction to Computer Applications in Radiography	Introduction to Computer Applications in Nuclear Medicine	Introduction to Computer Applications in Radiation Therapy	Introduction to Computer Applications in Radiography

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED AMENDMENT

RADIOGRAPHY	NUCLEAR MEDICINE	RADIATION THERAPY	LIMITED RADIOGRAPHY
Nuclear Physics	Nuclear Physics	Nuclear Physics	Nuclear Physics
Health Physics	Health Physics	Health Physics	Health Physics
Mammography	Instrumentation and Statistics		
		Radiation Oncology Technique	
	Biochemistry		
	Immunology	Dosimetry	
		Radiation Oncology	
	Radionuclide Therapy		
	Radiopharmacy		
	Radionuclide Chemistry		
		Oncology Pathology	

(Source: Amended at Ill. Reg. ___, effective _____)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENT

Section 401. Appendix C. Minimum Training Requirements for Radiographers Performing Mammography

As referenced in Section 401.160, applicants may refer to this Appendix for subjects relating directly to mammography in completing the minimum requirements for continuing education.

Subject	Contact Hours of Instruction
Anatomy and Physiology of the Breast	1 Hour
Mammographic Equipment and Technique	1 Hour
Mammographic Quality Control	2 Hours
Positioning Techniques for Mammography	2 Hours
Mammographic Film Evaluation	1 Hour
Special Procedures in Breast Imaging	1 Hour

(Source: Added at — Ill. Reg. —, effective —)

PRAIRIE STATE 2000 AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- 1) The Heading of the Part: Individual Training Assistance Program
- 2) Code Citation: 56 Ill. Adm. Code 5400
- 3) Section Numbers:
5400.110 Amendment
5400.210 Amendment
5400.310 Amendment
Proposed Action:
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 48, par 1512, Public Act 87-661, Section 5, signed September 20, 1991, effective January 1, 1992.
- 5) A complete Description of the Subjects and Issued Involved: Provides for workplace literacy and basic skills education grants to be made in accordance with statutes.
- 6) Will this rule replace an emergency rule currently in effect? Yes.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does this amendment contain incorporations by reference? No.
- 9) Are there any other proposed amendments pending on this part? No.
- 10) Statement of Statewide Policy Objectives: Does Not Apply.
- 11) Time, Place and Manner in Which Interested Persons May Comment on this Rulemaking: Comments may be submitted in writing to: Dennis Sienko, Chief Executive Officer, Prairie State 2000 Authority, State of Illinois Center, Suite 4-800, Chicago, Illinois 60601, (312) 814-2700. Written comments should be submitted no later than March 9, 1992.
- 12) Initial Regulatory Flexibility Analysis:
 - A) Date Rule Submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: January 2, 1992.

ILLINOIS REGISTER

PRAIRIE STATE 2000 AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- B) Type of Small Business affected: Providers of Training Programs.
- C) Reporting, Bookkeeping or other procedures required for compliance: No additional required.
- D) Type of professional skills necessary for compliance: No additional required.

The full text of the proposed amendments is identical to the text of the emergency amendments appearing on page 1495 of this issue of the Illinois Register.

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

- 1) The Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.565 Proposed Action: New Section
- 4) Statutory Authority: Sections 5-5.1 et seq. and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Pars. 5-5.1 et seq. and 12-13)
- 5) A Complete Description of the Subjects and Issues Involved: The attached rule outlines the requirements for kosher kitchen reimbursement as mandated under Public Act 86-1464.
- 6) Will this Proposed Amendment replace an Emergency Amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? Yes X No
- 8) Does this Proposed Amendment contain incorporations by reference?
- 9) Are there any other Proposed Amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.11	Amendment	May 10, 1991 (15 Ill. Reg. 6949)
140.27	Amendment	January 3, 1992 (16 Ill. Reg. 65)
140.94	Amendment	November 8, 1991 (15 Ill. Reg. 15933)
140.95	Amendment	November 8, 1991 (15 Ill. Reg. 15933)
140.440	Amendment	August 30, 1991 (15 Ill. Reg. 12171)
140.441	Amendment	August 30, 1991 (15 Ill. Reg. 12171)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.442	Amendment	August 30, 1991 (15 Ill. Reg. 12171)
140.449	Amendment	August 30, 1991 (15 Ill. Reg. 12171)
140.469	Amendment	September 20, 1991 (15 Ill. Reg. 13685)
140.512	Amendment	September 13, 1991 (15 Ill. Reg. 13274)
140.513	Amendment	September 13, 1991 (15 Ill. Reg. 13274)
140.514	Amendment	August 16, 1991 (15 Ill. Reg. 11555)
140.526	Repealed	January 10, 1992 (16 Ill. Reg. 472)
140.527	Repealed	January 10, 1992 (16 Ill. Reg. 472)
140.528	Repealed	January 10, 1992 (16 Ill. Reg. 472)
140.529	Repealed	January 10, 1992 (16 Ill. Reg. 472)
140.530	Amendment	November 8, 1991 (15 Ill. Reg. 15933)
140.538	Amendment	November 8, 1991 (15 Ill. Reg. 15933)
140.552	Amendment	November 8, 1991 (15 Ill. Reg. 15933)
140.560	Amendment	April 19, 1991 (15 Ill. Reg. 5585)
140.561	Amendment	May 17, 1991 (15 Ill. Reg. 7482)
140.562	Amendment	November 8, 1991 (15 Ill. Reg. 15933)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.569	Amendment	November 8, 1991 (15 Ill. Reg. 15933)
140.583	Amendment	November 8, 1991 (15 Ill. Reg. 15933)
140.600	New Section	January 10, 1992 (16 Ill. Reg. 472)
140.602	New Section	January 10, 1992 (16 Ill. Reg. 472)
140.604	New Section	January 10, 1992 (16 Ill. Reg. 472)
140.608	New Section	January 10, 1992 (16 Ill. Reg. 472)
140.610	New Section	January 10, 1992 (16 Ill. Reg. 472)
140.612	New Section	January 10, 1992 (16 Ill. Reg. 472)
140.614	New Section	January 10, 1992 (16 Ill. Reg. 472)
140.646	Amendment	May 10, 1991 (15 Ill. Reg. 6949)
140.835	Repealed	November 8, 1991 (15 Ill. Reg. 15933)

10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be in writing and should be addressed to Daniel Leikvold, Staff Attorney, Office of the General Counsel, Illinois Department of Public Aid, Jesse B. Harris Building II, 100 South Grand Avenue East, 3rd Floor, Springfield, Illinois 62762 (217) 782-1233. The Department will consider all written comments it receives within 30 days of the date of publication of this notice.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

12) Initial Regulatory Flexibility Analysis:

- A) Date Proposed Amendment was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: January 14, 1992
- B) Types of small businesses affected: Medical Providers
- C) Reporting, bookkeeping or other procedures required for compliance: No new procedures required.
- D) Types of professional skills necessary for compliance: No new skills required.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section
140.1
140.2
140.3

Incorporation By Reference
Medical Assistance Programs
Covered Services Under The Medical Assistance Programs for AFDC, AFDC-MANG, AABD, AABD-MANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Children Under Age Eight Who Do Not Qualify As Mandatory Categorically Needy

140.4

Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)

140.5

Covered Medical Services Under GA

140.6

Medical Services Not Covered

140.7

Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight

140.8

Medical Assistance For Qualified Severely Impaired Individuals

140.9

Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy

140.10

Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION/DRUG MANUAL

Section
140.11

Enrollment Conditions for Medical Providers

140.12

Participation Requirements for Medical Providers

140.13

Definitions

140.14

Denial of Application to Participate in the Medical Assistance Program

140.15

Recovery of Money

140.16

Termination of a Vendor's Eligibility to Participate in the Medical Assistance Program

140.17

Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section	
140.18	Effect of Termination on Individuals Associated with Vendor
140.19	Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
140.20	Submittal of Claims
140.21	Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
140.22	Magnetic Tape Billings
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: PROVIDER PARTICIPATION FEES

Section	
140.94	Hospital Services (Recodified)
140.95	Participation (Recodified)
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)
140.101	Transplants (Recodified)
140.102	Heart Transplants (Recodified)
140.103	Liver Transplants (Recodified)
140.104	Bone Marrow Transplants (Recodified)
140.110	Disproportionate Share Hospital Adjustments (Recodified)
140.116	Payment for Inpatient Services for GA (Recodified)
140.117	Hospital Outpatient and Clinic Services (Recodified)
140.200	Payment for Hospital Services During Fiscal Year 1982 (Recodified)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section	
140.201	Payment for Hospital Services After June 30, 1982 (Repealed)
140.202	Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203	Limits on Length of Stay by Diagnosis (Recodified)
140.300	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350	Copayments (Recodified)
140.360	Payment Methodology (Recodified)
140.361	Non-Participating Hospitals (Recodified)
140.362	Pre July 1, 1989 Services (Recodified)
140.363	Post June 30, 1989 Services (Recodified)
140.364	Prepayment Review (Recodified)
140.365	Base Year Costs (Recodified)
140.366	Restructuring Adjustment (Recodified)
140.367	Inflation Adjustment (Recodified)
140.368	Volume Adjustment (Repealed)
140.369	Groupings (Recodified)
140.370	Rate Calculation (Recodified)
140.371	Payment (Recodified)
140.372	Review Procedure (Recodified)
140.373	Utilization (Repealed)
140.374	Alternatives (Recodified)
140.375	Exemptions (Recodified)
140.376	Utilization, Case-Mix and Discretionary Funds (Repealed)
140.390	Subacute Alcoholism and Substance Abuse Services (Recodified)
140.391	Definitions (Recodified)
140.392	Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394	Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.396	Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.398	Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section	
140.400	Payment to Practitioners, Nurses and Laboratories
140.410	Physicians' Services
140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section	
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
140.418	Department of Corrections Laboratory
140.420	Dental Services
140.421	Limitations on Dental Services
140.422	Requirements for Prescriptions and Dispensing of Pharmacy Items - Dentists
140.425	Podiatry Services
140.426	Limitations on Podiatry Services
140.427	Requirement for Prescriptions and Dispensing of Pharmacy Items - Podiatry
140.428	Chiropractic Services
140.429	Limitations on Chiropractic Services (Repealed)
140.430	Independent Laboratory Services
140.431	Services Not Covered by Independent Laboratory
140.432	Limitations on Independent Laboratory Services
140.433	Payment for Laboratory Services
140.434	Record Requirements for Independent Laboratories
140.435	Nurse Services
140.436	Limitations on Nurse Services
140.440	Pharmacy Services
140.441	Pharmacy Services Not Covered
140.442	Prior Approval of Prescriptions
140.443	Filling of Prescriptions
140.444	Compounded Prescriptions
140.445	Prescription Items (Not Compounded)
140.446	Over-the-Counter Items
140.447	Reimbursement
140.448	Returned Pharmacy Items
140.449	Payment of Pharmacy Items
140.450	Record Requirements for Pharmacies
140.452	Mental Health Clinic Services
140.453	Definitions
140.454	Types of Mental Health Clinic Services
140.455	Payment for Mental Health Clinic Services
140.456	Hearings
140.457	Therapy Services
140.458	Prior Approval for Therapy Services
140.459	Payment for Therapy Services
140.460	Clinic Services
140.461	Clinic Participation Requirements (Emergency Expired)
140.462	Covered Services in Clinics (Emergency Expired)
140.463	Encounter Rate Clinic Payment (Emergency Expired)
140.464	Psychiatric Clinics (Hospital-based)
140.465	Speech and Hearing Clinics
140.466	Rural Health Clinics
140.467	Independent Clinics

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section	
140.469	Hospice
140.470	Home Health Services
140.471	Home Health Covered Services
140.472	Types of Home Health Services
140.473	Prior Approval for Home Health Services
140.474	Payment for Home Health Services
140.475	Medical Equipment, Supplies and Prosthetic Devices
140.476	Medical Equipment, Supplies and Prosthetic Devices for Which Payment Will Not Be Made
140.477	Limitations on Equipment, Supplies and Prosthetic Devices
140.478	Prior Approval for Medical Equipment, Supplies and Prosthetic Devices
140.479	Approval of Medical Supplies
140.480	Equipment Rental Limitations
140.481	Payment for Medical Equipment, Supplies and Prosthetic Devices
140.482	Family Planning Services
140.483	Limitations on Family Planning Services
140.484	Payment for Family Planning Services
140.485	Healthy Kids Program
140.486	Limitations on Medichesk Services (Repealed)
140.487	Healthy Kids Program Timeliness Standards
140.488	Periodicity Schedule, Immunizations and Diagnostic Laboratory Procedures
140.490	Medical Transportation
140.491	Limitations on Medical Transportation
140.492	Payment for Medical Transportation
140.495	Psychological Services
140.496	Payment for Psychological Services
140.497	Hearing Aids
	SUBPART E: GROUP CARE
Section	
140.500	Group Care Services
140.502	Cessation of Payment at Federal Direction
140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Continuation of Payment Because of Threat To Life
140.506	Provider Voluntary Withdrawal
140.507	Continuation of Provider Agreement
140.510	Determination of Need for Group Care
140.511	Services Provided Without Charge
140.512	Utilization Control
140.513	Utilization Review Plan
140.514	Certifications and Recertifications of Care

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section	
140.515	Management of Recipient Funds--Personal Allowance Funds
140.516	Recipient Management of Funds
140.517	Correspondent Management of Funds
140.518	Facility Management of Funds
140.519	Use or Accumulation of Funds
140.520	Management of Recipient Funds--Local Office Responsibility
140.521	Room and Board Accounts
140.522	Reconciliation of Recipient Funds
140.523	Bed Reserves
140.524	Cessation of Payment Due to Loss of License
140.525	Eligibility For Quality Incentive Program (QUIP)
140.526	Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP)
140.527	Quality Incentive Survey
140.528	Payment of Quality Incentive
140.529	Reviews
140.530	Basis of Payment for Group Care Services
140.531	General Service Costs
140.532	Health Care Costs
140.533	General Administration Costs
140.534	Ownership Costs
140.535	Costs for Interest, Taxes and Rent
140.536	Organization and Pre-Operating Costs
140.537	Payments to Related Organizations
140.538	Special Costs
140.539	Nurse's Aide Training and Testing
140.540	Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
140.541	Salaries Paid to Owners or Related Parties
140.542	Cost Reports-Filing Requirements
140.543	Time Standards for Filing Cost Reports
140.544	Access to Cost Reports (Repealed)
140.545	Penalty for Failure to File Cost Reports
140.550	Update of Operating Costs
140.551	General Service Costs
140.552	Nursing and Program Costs
140.553	General Administrative Costs
140.554	Component Inflation Index
140.555	Minimum Wage
140.560	Components of the Base Rate Determination
140.561	Support Costs Components
140.562	Nursing Costs
140.563	Capital Costs
140.565	Incentive-Payments-for-Quality-Care-(Repealed)
	Kosher Kitchen Reimbursement
140.566	Level I Incentive Payments (Repealed)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section	
140.567	Level II Incentive Payments (Repealed)
140.568	Duration of Incentive Payments (Repealed)
140.569	Clients With Exceptional Care Needs
140.570	Capital Rate Component Determination
140.571	Fair Rental Value (FRV) Calculation
140.572	Total Capital Rate
140.573	Other Capital Provisions
140.574	Capital Costs for Rented Facilities
140.575	Newly Constructed Facilities (Repealed)
140.576	Renovations (Repealed)
140.577	Capital Costs for Rented Facilities (Renumbered)
140.578	Property Taxes
140.579	Specialized Living Centers
140.580	Mandated Capital Improvements
140.581	Qualifying as Mandated Capital Improvement
140.582	Cost Adjustments
140.583	Campus Facilities
140.584	Illinois Municipal Retirement Fund (IMRF)
140.590	Audit and Record Requirements
140.591	Screening Assessment for Long Term Care and Alternative Residential Settings and Services
140.643	In-Home Care Program
140.645	Medical and In-Home Care For Disabled Persons Under Age 21
140.646	Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
140.647	Description of Developmental Training (DT) Services
140.648	Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
140.649	Effective Dates of Reimbursement for Developmental Training (DT) Programs
140.650	Certification of Developmental Training (DT) Programs
140.651	Decertification of Day Programs
140.652	Terms of Assurances and Contracts
140.680	Effective Date Of Payment Rate
140.700	Discharge of Long Term Care Residents
140.830	Appeals of Rate Determinations
140.835	Determination of Cap on Payments for Long Term Care
	SUBPART F: MEDICAID PARTNERSHIP PROGRAM
	General Description
140.850	Definition of Terms
140.855	Covered Services

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section

140.865

Sponsor Qualifications

140.870

Sponsor Responsibilities

140.875

Department Responsibilities

140.880

Provider Qualifications

140.885

Provider Responsibilities

140.890

Payment Methodology

140.895

Contract Monitoring

140.896

Reimbursement For Program Costs (Active Treatment)

For Clients in Long Term Care Facilities For the

Developmentally Disabled (Recodified)

SUBPART G: REIMBURSEMENT FOR NURSING COSTS FOR GERIATRIC FACILITIES

Section

140.900

Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)

140.901

Functional Areas of Needs (Recodified)

140.902

Service Needs (Recodified)

140.903

Definitions (Recodified)

140.904

Times and Staff Levels (Repealed)

140.905

Statewide Rates (Repealed)

140.906

Reconsiderations (Recodified)

140.907

Midnight Census Report (Recodified)

140.908

Times and Staff Levels (Recodified)

140.909

Statewide Rates (Recodified)

140.910

Referrals (Recodified)

140.911

Basic Rehabilitation Aide Training Program (Recodified)

140.912

Interim Nursing Rates (Recodified)

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section

140.940

Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)

140.942

Definition of Terms (Recodified)

140.944

Notification of Negotiations (Recodified)

140.946

Hospital Participation in ICARE Program Negotiations (Recodified)

140.948

Negotiation Procedures (Recodified)

140.950

Factors Considered in Awarding ICARE Contracts (Recodified)

140.952

Closing an ICARE Area (Recodified)

140.954

Administrative Review (Recodified)

140.956

Payments to Contracting Hospitals (Recodified)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section

140.958

Admitting and Clinical Privileges (Recodified)

140.960

Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)

140.962

Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)

140.964

Contract Monitoring (Recodified)

140.966

Transfer of Recipients (Recodified)

140.968

Validity of Contracts (Recodified)

140.970

Termination of ICARE Contracts (Recodified)

140.972

Hospital Services Procurement Advisory Board (Recodified)

140.TABLE A

Medichek Recommended Screening Procedures (Repealed)

140.TABLE B

Health Service Areas

140.TABLE C

Capital Cost Areas

140.TABLE D

Schedule of Dental Procedures

140.TABLE E

Time Limits for Processing of Prior Approval Requests

140.TABLE F

Podiatry Service Schedule

140.TABLE G

Travel Distance Standards

140.TABLE H

Areas of Major Life Activity

140.TABLE I

Staff Time and Allocation for Training Programs (Recodified)

140.TABLE J

HSA Grouping

140.TABLE K

Services Qualifying for 10% Add-On

140.TABLE L

Services Qualifying for 10% Add-On to Surgical Incentive Add-On

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 6503-1 et seq.) and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13)

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983;

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; recodified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days;

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1742, effective October 24, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 10 Ill. Reg. 698, effective December 19, 1986; amended at 10 Ill. Reg. 1418, effective December 31, 1986; amended at 10 Ill. Reg. 2323, effective January 15, 1987; amended at 10 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 10 Ill. Reg. 4302; amended at 10 Ill. Reg. 4303, effective March 6, 1987; amended at 10 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 10 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 10 Ill. Reg. 9169, effective April 28, 1987; amended at 10 Ill. Reg. 10903, effective June 1, 1987; amended at 10 Ill. Reg. 11528, effective June 22, 1987; amended at 10 Ill. Reg. 12011, effective June 30, 1987; amended at 10 Ill. Reg. 12290, effective July 6, 1987; amended at 10 Ill. Reg. 14048, effective August 14, 1987; amended at 10 Ill. Reg. 14771, effective August 25, 1987; amended at 10 Ill. Reg. 16758, effective September 28, 1987; amended at 10 Ill. Reg. 17295, effective September 30, 1987; amended at 10 Ill. Reg. 18696, effective October 27, 1987; amended at 10 Ill. Reg. 20909, effective December 14, 1987; amended at 10 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 10 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 10 Ill. Reg. 5427, effective March 15, 1988; amended at 10 Ill. Reg. 6246, effective March 16, 1988; amended at 10 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.913 thru 140.914 Table I recodified to 89 Ill. Adm. Code 147.205 thru 147.208 and 147.209 Table A and 147.210 Table B at 10 Ill. Reg. 6956; amended at 10 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 10 Ill. Reg. 7401; amended at 10 Ill. Reg. 7695, effective April 21, 1988; amended at 10 Ill. Reg. 10497, effective June 3, 1988; amended at 10 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 10 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 10 Ill. Reg. 12509, effective July 15, 1988;

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7025, effective April 24, 1989; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22,

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; added at 16 Ill. Reg. _____, effective _____.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

SUBPART E: GROUP CARE

Section 140.565 ~~Incentive-Payments-for-Quality-Care-~~
(Repeated)-Kosher Kitchen Reimbursement

Effective July 1, 1991, for reimbursement to skilled and intermediate care facilities with rabbinically approved or certified fully kosher kitchen and food service operations, the Department will determine eligibility according to the following procedures:

a) Qualified Providers

The facility must have a fully kosher kitchen and food service operation that is, at least annually, rabbinically approved or certified and sixty percent

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section 140.565 Incentive-Payments-for-Quality-Care-
(Repeated)-Kosher Kitchen Reimbursement
(Cont'd)

(60%) or more of the residents in the facility request kosher foods or food products prepared in accordance with Jewish religious dietary requirements.

b) Enrollment

- 1) The facility must notify the Department, in writing, of its request to be considered for kosher kitchen reimbursement.
- 2) Department staff may visit the facility to determine that the facility has a fully kosher kitchen and that at least sixty percent (60%) of its residents are requesting kosher foods or products.
- 3) The facility will be required to supply a list to the Department of current residents and identify which residents request kosher foods or products and sign a form certifying that the percentage of residents requesting kosher foods or products is at least sixty percent (60%). The rabbi will be required to sign the same form certifying that the fully kosher kitchen is rabbinically approved or certified at least annually.
- 4) Upon receipt of the certification form, the additional reimbursement will be added to the support component of the facility per diem rate and will become effective on the first day of the month subsequent to the month the facility request was received. The support rate ceiling established in Section 140.561(a)(1) may be exceeded as a result of this kosher kitchen rate factor.
- 5) The facility must notify the Department of any change in the percentage of residents requesting kosher foods or products if that number drops below the required sixty percent (60%). Upon notification, the Department will adjust the support component of the facility per diem accordingly.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section 140.565 Incentive-Payments-for-Quality-Care-
(Repeated)-Kosher Kitchen Reimbursement
(Cont'd)

- 6) Annually, the facility must complete the certification form and submit it to the Department with their cost report.

c) Reimbursement

Based upon food cost reports of the Illinois Department of Agriculture regarding kosher and non-kosher food available in the various regions of the State, the rate structure may be periodically adjusted by the Department but may not exceed the maximum amount authorized under Public Act 86-1464.

(Source: Added at 16 Ill. Reg. ____, effective ____)

SECRETARY OF STATE
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Public Building Construction
- 2) Code Citation: 71 Ill. Adm. Code 2000
- 3)

<u>Section Number</u>	<u>Proposed Action</u>
2000.45	Amendment
2000.100	Amendment
2000.210	Amendment
2000.245	Amendment
2000.250	Amendment
2000.320	Amendment
2000.340	Amendment
2000.410	Amendment
2000.430	Amendment
2000.500	Amendment
2000.520	Amendment
2000.540	Amendment

- 4) Statutory Authority: Implementing and authorized by Sections 5, 6, and 6-1 of the Illinois Purchasing Act (Ill. Rev. Stat. 1989, ch. 127, pars. 132.5, 132.6 and 132.6-1)

- 5) A Complete Description of the Subjects and Issues Involved:

These amendments are for the purpose of clean-up, correction of errors and other amendments which reflect changes in policy and procedures.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference?
No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives:

This rulemaking does not affect units of local government.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking. Written comments may be submitted within 45 days to:

Robert B. Powers
Assistant Counsel
298 Centennial Building
Springfield, Illinois 62706
217/785-3094

- 12) Initial Regulatory Flexibility Analysis:

After careful consideration, the Secretary of State does not feel that this rulemaking will have any adverse effect on small businesses and so this rulemaking was not submitted to the Small Business Office of the Department of Commerce and Community Affairs.

The full text of the proposed amendments begins on the next page:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

TITLE 71: PUBLIC BUILDINGS, FACILITIES AND REAL PROPERTY
CHAPTER IV: SECRETARY OF STATE

PART 2000

PUBLIC BUILDING CONSTRUCTION

SUBPART A: GENERAL

Section

2000.5 Policy
2000.10 Applicability
2000.15 Definitions
2000.20 Prequalification
2000.25 Beneficial Interest
2000.30 Suspension
2000.35 Causes for Suspension
2000.40 Debarment
2000.45 Bid Opening
2000.50 Proprietary Information
2000.55 The Illinois Purchasing Act

SUBPART B: BID SUBMISSIONS

Section

2000.100 Invitation for Bid
2000.110 Contents of Invitation for Bids
2000.120 Time and Place to Submit Bids
2000.130 Submission of Bids
2000.140 Change or Withdrawal of Bid
2000.150 Submission Binding
2000.160 Bid Reservations
2000.170 Bidder Must be Responsible

SUBPART C: RESPONSIBILITY

Section

2000.200 Determination by Procuring Agency
2000.205 Proof of Responsibility
2000.210 Standards of Responsibility
2000.215 New Bidders
2000.220 Security Required
2000.225 Form of Security
2000.230 Amount
2000.235 Subsequent Requirement
2000.240 Security Allowances
2000.245 Annual Security
2000.250 Return of Security
2000.255 Recording

SUBPART D: AWARDING OF BIDS AND REJECTION

Section

2000.300 Award
2000.310 Delay in Award
2000.320 Cancellation of Invitation
2000.330 Notice of Cancellation

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

2000.340 Rejection of Individual Bids
2000.350 Minor Informalities or Irregularities in Bids
2000.360 Time of Award
2000.370 General

SUBPART E: MISTAKES AND ERRORS

Section

2000.400 Apparent Clerical Mistake
2000.410 Other Mistakes Disclosed Before Award
2000.420 Processing Mistakes
2000.430 Incorrect Procedures

SUBPART F: TERMS AND CONDITIONS

Section

2000.500 Terms and Conditions of Transactions
2000.510 Modification
2000.520 Fiscal Year Contracting
2000.530 Contracts Spanning Fiscal Years
2000.540 Prevailing Wage Required
2000.550 Full Compliance
2000.560 Cancellation for Material Breach of Contract
2000.570 Cancellation for Fraud, Collusion, Illegality, Etc.
2000.580 Withholding Monies to Compensate State for Damages
2000.590 Damages

SUBPART G: PROTESTS

Section

2000.600 General
2000.610 Time/Place for Protest or Objections
2000.620 Suspension of Award
2000.630 Evaluation of Protest or Objection
2000.640 No Rights Conferred
2000.650 Attempt to Influence Award
2000.660 Collusive Bids

SUBPART H: MISCELLANEOUS

Section

2000.700 Identical Bids
2000.710 Severability

AUTHORITY: Implementing and authorized by Sections 5, 6, and 6-1 of the Illinois Purchasing Act (Ill. Rev. Stat. 1989, ch. 127, pars. 132.5, 132.6, and 132.6-1).

SOURCE: Adopted at 9 Ill. Reg. 174, effective December 24, 1984; amended at _____ Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

Section 2000.45 Bid Opening

- a) Bids will be opened on the date and at the time and place specified in the bid solicitation. The opening of all bids shall be done publicly.
- b) All sealed bids and sealed proposals and, where appropriate, negotiations received prior to the time set for opening, shall be opened in public at the date, time, and place specified and, when bidders are present, the record or abstract shall be read.

The public bid opening shall be conducted and witnessed by not less than two (2) employees of the Secretary of State Purchasing Department. One shall open and read the bid prices aloud, while the other witnesses and records the abstract of bids. This public bid opening shall be open to anyone who wants to attend and witness the proceeding.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

Section 2000.100 Invitation for Bid

The Secretary of State will advertise the bid in the official State Newspaper in accordance with requirements contained in the Illinois Purchasing Act, and may use the list of prequalified Bidders of the Capital Development Board (44 Ill. Adm. Code 950). Bidders who have failed on two consecutive occasions to return the bid form without bidding will not ordinarily be sent a bid form on the next occasion, unless the Bidder has shown in a letter to the Director of Purchasing that it wishes to be sent a bid form.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

Section 2000.210 Standards of Responsibility

Responsibility shall be determined by consideration of the following factors, such as, whether the Bidder:

- a) Has adequate financial resources or the ability to obtain such resources as required during the performance of the contract. The Director of Purchasing shall designate a level of financial resources when the contract exceeds \$10,000.00, below which the Bidder will be deemed "not responsible", as determined in the Capital Development Board Rules (44 Ill. Adm. Code 950).
- b) Is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- c) Has a satisfactory record of performance. Bidders who are or have been deficient in current or recent contract performance in dealing with the Agency or other customers shall be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the Bidder.
- d) Has a satisfactory record of integrity and business ethics based upon reputation, previous contractual arrangements, and performance.
- e) Has a current Public Contracts number from the Illinois Department of Human Rights, if required. Proof of application prior to bid award will be sufficient for an initial determination; or has a currently valid Identification Number issued by the Public Contracts Division of the Illinois Department of Human Rights.
- f) Pays prevailing wages if required by law. The Agency will contact the Illinois Department of Labor to ascertain prevailing wages, benefits and conditions. These, if known, must be shown on the certification form contained in each Invitation for Bids and each Bidder must certify that prevailing wages, benefits and conditions are met. Certification forms are to be filed with DCHS and the Illinois Department of Labor. Complaints regarding compliance with prevailing wages, benefits and conditions shall be directed to the Department of Labor. The Department of Labor will periodically provide the agency with current information regarding prevailing rates of wages. The Invitation for Bids will advise prospective bidders the amount of wages and benefits which the Department of Labor has determined that workers providing services under the resulting contract should be paid. Submission of a bid shall constitute the bidders acceptance and intent to fully comply. Complaints regarding a contractor's failure to comply shall be directed to the Illinois Department of Labor.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

Section 2000.245 Annual Security

A Bidder may, subject to the approval of the Director of Purchasing, submit a single or continuous security each year which will be applicable on all contracts of the Agency. When such security has been obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

NOTICE OF PROPOSED AMENDMENTS

Section 2000.250 Return of Security

Bid security will be returned to unsuccessful Bidders after award of the contract and issuance of a Notice to Proceed. The bid security of the successful Bidder will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

Section 2000.320 Cancellation of Invitation

Invitation for Bids may be cancelled prior to award or after consideration of protest and all bids rejected prior to award when such action is in the best interests of the Agency. Every effort shall be made to anticipate necessity of rejection to avoid additional procurement costs and exposure of bid prices. Reasons for rejecting all bids are:

- a) Inadequate, ambiguous, or otherwise deficient specifications were cited in the Invitation for Bids.
- b) The goods or services are no longer required.
- c) The Invitation for Bids did not provide for consideration of all factors of cost to the Agency, such as cost of transporting Agency-furnished property to Bidders.
- d) Bids received indicate that the needs of the Agency can be satisfied by a less expensive good or service differing from that on which the bids were invited.
- e) All otherwise acceptable bids received are at unreasonable prices as compared to the estimated cost of the project.
- f) The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith.
- g) Time factors for delivery do not allow acceptance.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

Section 2000.340 Rejection of Individual Bids

- a) Any bid which fails to conform to the essential requirements of the Invitation for Bids, such as specifications, delivery schedule, or permissible alternatives thereto, shall be rejected as nonresponsive in addition to the reasons specified in subsection (c) hereof.

NOTICE OF PROPOSED AMENDMENTS

- b) Bids containing any material alteration or erasure will be rejected unless the change is initialed in ink by the Bidder. Samples submitted showing evidence of altering or removing manufacturer's label, logotype, model or serial number, or any other standard of the industry for identification, shall be due cause for rejection of the bid, unless alteration or removal is supported with justifiable documentation satisfactory to the Director of Purchasing.
- c) A bid shall be rejected or considered an alternative bid where the Bidder imposes conditions which would modify requirements of the Invitation for Bids or limit liability to the Agency so as to give an advantage over other Bidders. For example, bids shall be rejected in which the Bidder:
 - 1) Attempts to protect against future changes in conditions such as increased costs, if total price to the Agency cannot be determined for bid evaluation.
 - 2) Fails to state a price and, in lieu thereof, states that price shall be "price in effect at time of delivery".
 - 3) States a price but qualifies such price as being subject to "price in effect at time of delivery", or price subject to change.
 - 4) Where not authorized by the invitation, conditions or qualifies the bid by stipulating that the bid is to be considered only if, prior to date of award, Bidder receives (or does not receive) award under a separate procurement.
 - 5) Limits rights of Agency under any contract clause. However, a low Bidder may be requested to delete objectionable conditions from the bid if these conditions do not go to the substance, as distinguished from the form of the bid. A condition goes to the substance of a bid where it affects price, quantity, quality, or delivery of the items offered.
- d) Any bid may be rejected if the Agency determines in writing that it is unreasonable as to price.
- e) Bids received from any person or concern debarred or ineligible shall be rejected if the period of debarment or ineligibility has not expired.
- f) Low bids received from firms determined to be not responsible.
- g) Where a bid security is required and a bidder fails to furnish it in accordance with the requirements of the Invitation for Bids.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- h) After submitting a bid, if a Bidder transfers all of his/her assets or that part of his/her assets related to the bid during the period between the bid opening and the award, the transferee may not take over the bid except with permission of the Agency.

- i) Any bid may be rejected if the bidder fails to provide any information which was requested in the Invitation for Bids.

- j) The originals of all rejected bids, and any written findings with respect to such rejection, shall be preserved along with the bids and other papers relating to the procurement.

(Source: Amended at ___ Ill. Reg. ___, effective ___)

Section 2000.410 Other Mistakes Disclosed Before Award

Director of Purchasing is authorized, in order to minimize delay in contract awards, to make the administrative determinations described below in connection with mistakes in bids alleged after opening of bids and before award. The authority contained herein to permit correction of bids is limited to bids which, as submitted, are responsive to the Invitation for Bids, and may not be used to permit correction of bids to make them responsive.

- a) A determination may be made permitting the Bidder to withdraw its bid where the Bidder requests permission to do so and clear and convincing evidence establishes the existence of a mistake.
- b) If the evidence is clear and convincing both as to the existence of a mistake and as to the bid actually intended, and if the bid, both as uncorrected and corrected, is the lowest received, a determination may be made to correct the bid and not permit its withdrawal.
- c) A determination may be made permitting the Bidder to correct the bid where the Bidder requests permission to do so and clear and convincing evidence establishes both the existence of a mistake and the bid actually intended. However, if such correction would result in displacing one or more lower acceptable bids, the determination shall not be made unless the existence of the mistake and bid actually intended are ascertainable substantially from the invitation and bid itself. If the evidence is clear and convincing only as to the mistake, but not as to the intended bid, a determination permitting the Bidder to withdraw his/her bid may be made.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- d) If the evidence does not warrant a determination under subsections (a), (b), or (c) of this Section, a determination may be made that a Bidder may neither withdraw nor correct his/her bid.

(Source: Amended at ___ Ill. Reg. ___, effective ___)

Section 2000.430 Incorrect Procedures

If, for any reason, the Director of Purchasing makes an award that is procedurally incorrect and if it determines not to overturn the award, the protesting Bidder that should have received the award may only claim as damages the reasonable cost of bid preparation. An explanation of such procedural errors will be filed with the Department of Central Management Services and with the Auditor General.

(Source: Amended at ___ Ill. Reg. ___, effective ___)

SUBPART F: TERMS AND CONDITIONS

Section 2000.500 Terms and Conditions of Transaction

The following terms and conditions, or substitute language proposed by the Bidder and acceptable to the Agency, whether in a contract form or not, shall apply to any contract resulting from these procedures:

- a) Entire Agreement - These terms and conditions, together with the Invitation for Bids, other written representation of Bidder, and all sheets or documents as are made a part hereof, shall constitute the entire present agreement between the parties.
- b) Modifications - No change in, addition, or waiver of the items, conditions and specifications contained herein shall be a binding obligation on the Agency unless approved in writing by its authorized representative.
- c) Warranties - Bidder makes the following warranties to Agency and its customers and the users of the goods or services herein described in the bid:
 - 1) It will, at the date of delivery, have good title to any and all goods supplied hereunder, and said goods will be free and clear of any and all liens and encumbrances,
 - 2) Any and all goods supplied hereunder will be merchantable quality and fit for the particular use intended,
 - 3) Will be free from defects, whether patent or latent in material or workmanship, and will be in full conformity with the specifications contained herein.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

4) Bidder agrees that the foregoing warranties shall survive acceptance of the goods, and that said warranties shall be in addition to any warranties of additional scope given to Agency by Bidder. The warranty in subsection (2) above may be modified if expressly brought to the attention of the Agency and an acceptable substitute offered.

d) Governing Law - The contract formed pursuant to the terms, conditions and specifications of the Invitation for Bids and the obligations thereby imposed on Bidder and Agency shall be governed by and construed according to the laws of the State of Illinois. Bidder represents and agrees that the goods herein described have not been or will not be manufactured, sold, priced or transported in violation of any federal, state or local law or any lawful order, rule or regulation issued thereunder.

e) Assignment - Bidder shall not assign such contract without the written consent of the Agency by the Director of Purchasing.

f) Equal Employment Opportunity - In the event of the bidder's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Human Rights Act (Ill. Rev. Stat. 1983, ch. 68, pars. 1-101 et seq.) or the Rules of the Illinois Department of Human Rights (44 Ill. Adm. Code 750) ("Department"), the Bidder shall be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract shall be cancelled or voided in whole or in part, and such other sanctions or penalties shall be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the Bidder agrees as follows:

1) That is will not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service, and further that it will examine all job classifications to determine if minority persons or women are under-utilized and will take appropriate affirmative action to rectify any such under-utilization.

2) That, if it hires additional employees in order to perform this contract or any portion thereof, it will determine the availability (in accordance with the Department's Rules) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not under-utilized.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

3) That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.

4) That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Bidder's obligations under the Illinois Human Rights Act and the Department's Rules. If any such labor organization or representative fails or refuses to cooperate with the Bidder in its efforts to comply with such Act and Rules, the Bidder will promptly so notify the Department and the Agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.

5) That it will submit reports as required by the Department's Rules, furnish all relevant information as may from time to time be requested by the Department or the Agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules.

6) That it will permit access to all relevant books, records, accounts and work sites by personnel of the Agency and the Department for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules.

7) That it will include verbatim or by reference the provision of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this contract, the Bidder will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the Agency and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

g) Other Terms and Conditions - Any terms and conditions not set forth herein shall be as specified in the request for proposal or invitation for bids and/or the resulting contract.

ILLINOIS REGISTER

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- h) Anti-Bribery - By signing the bid or contract, the bidder certifies that he/she has not bribed or attempted to bribe an officer or employee of the State of Illinois.
- i) Insurance - Each bidder shall carry full workers' compensation insurance and public liability insurance sufficient to protect the Agency's interests.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

Section 2000.520 Fiscal Year Contracting

The state fiscal year is July 1 to June 30 of the following calendar year. If a contract is signed before July 30, and performance occurs past July 1 and before September 30, payment may be made from funds of the fiscal year in which the contract was obligated in accordance with "An Act in relation to State finance" (Ill. Rev. Stat. 1983, ch. 127, pars. 137 et seq.)

(Source: Amended at _____ Ill. Reg. _____, effective _____)

Section 2000.540 Prevailing Wage Required

- a) No Bidder will be awarded a contract for construction on public works unless its employees are paid wages and benefits and are working under conditions prevalent in the location where the work is to be performed.

b) Prevailing wage and conditions prevalent means the hourly wages PLUS FRINGE BENEFITS FOR HEALTH AND WELFARE (SUCH AS, UNEMPLOYMENT COMPENSATION, WORKMAN'S COMPENSATION, LIABILITY INSURANCE AND HEALTH INSURANCE), INSURANCE, VACATIONS AND PENSIONS PAID GENERALLY, IN THE LOCALITY IN WHICH THE WORK IS BEING PERFORMED, TO EMPLOYEES ENGAGED IN WORK OF A SIMILAR CHARACTER, as determined by the Department of Labor.

- c) Prevailing wage rates, benefits and conditions will be those in effect on the first date of the contract, provided that if the rate changes during the contract term and the amount of change is known before execution of the contract, then the contract rate will reflect the change in rate. Any increases in costs to the contractor due to changes in the prevailing rate of wages or labor law during the term of any contract shall be at the expense of the contractor and not at the expense of the Secretary of State.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

ILLINOIS REGISTER

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

- 1) The Heading of the Part: Uniform Fiscal and Administrative Standards for the Job Training Partnership Act
- 2) Code Citation: 56 Ill. Adm. Code 2630
- 3) Section Numbers: 2630.82
2630.83
Adopted Action:
Amendment
Amendment
- 4) Statutory Authority: Implementing Section 164(a)(1) of the Job Training Partnership Act (29 U.S.C.A. 1501 et seq., revised 1990) and Section 46.41 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 46.41) and authorized by Section 46.40(b) of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 46.40(b)).
- 5) Effective Date of Amendments: January 13, 1992
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Do these amendments contain incorporations by reference? Yes, under Section 6.02(a) of the Illinois Administrative Procedure Act.
- 8) Date Filed in Agency's Principal Office: January 9, 1992.
- 9) Notice of Proposal Published in Illinois Register: May 31, 1991 - 15 Ill. Reg. 8081.
- 10) Has JCRC issued a Statement of Objections to these amendments? No.
- 11) Differences between proposal and final version:
In the main source note, added the Register citation and effective date for a rulemaking adopted after this one was proposed.
Section 2630.82
In line 13 of subsection (b)(3)(B)(i), changed "which" to "that".
In line 1 of subsection (b)(3)(D)(ii), deleted the comma following "businesses".
In line 4 of subsection (b)(3)(D)(iii), deleted the comma following "business".
In line 3 of subsection (b)(3)(D)(iv), deleted the comma following "business".
In line 2 of subsection (b)(3)(D)(v), deleted the comma following "Administration".

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

In line 3 of subsection (b)(3)(E)(i), inserted a comma after "action".

In lines 14 and 22 of subsection (b)(3)(E)(i), changed "will" to "shall".

In line 6 of subsection (b)(3)(E)(ii) and line 2 of subsection (b)(3)(E)(iii), changed "will" to "shall".

In line 3 of subsection (b)(3)(F)(i), inserted "shall" before "provide".

In subsection (b)(3)(F)(ii), placed a comma after "subgrantee" in line 2 and replaced "it" with "termination" in line 3.

In subsection (b)(3)(F)(iii), inserted "federal" before "Executive Order" in line 1 and placed "U.S." before "Department of Labor" in line 5.

In line 8 of subsection (b)(3)(F)(x), changed "audit" to "audits" and "examination" to "examinations".

In subsection (b)(3)(F)(xii), changed "Clear" to "Clean" in line 3 and added "U.S." before "Environmental" in line 5.

In subsection (b)(3)(F)(xiii), changed "which" to "that" in line 2 and capitalized the word "state" in line 3.

In subsection (b)(3)(F)(xiv), placed a comma after "Grantor" in line 9 and replaced "will" with "shall" in line 10.

In line 3 of subsection (b)(3)(F)(xv), changed "suspension" to "nonsuspension".

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? In response to JCAR's request, various technical changes were made to the rulemaking. No agreements between the department and JCAR were necessary to resolve JCAR questions concerning this rulemaking.

- 13) Will these amendments replace an emergency amendment currently in effect? No.

- 14) Are there any amendments pending on this Part? Yes.

Section Numbers: 2630.82
Proposed Action: Amendment
Illinois Register Citation: August 16, 1991
15 Ill. Reg. 11545

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Amendments: These amendments serve to update the department's rules entitled "Uniform Fiscal and Administrative Standards for the Job Training Partnership Act." The rulemaking adds various procurement provisions found in the Office of Management and Budget (OMB) Circular A-102 to Section 2630.82. Specifically, changes address reviews to avoid unnecessary/duplicative purchases, cost or price analyses; use of minority firms, women's business enterprises, and labor surplus area firms; required contract provisions; prohibition of geographical preferences; and availability of technical or other programs has been restated and moved from subsection(e) to subsections(b)(4)(D) and (b)(4)(D)(ii). Several references found in this Section have been corrected. Additionally, the rulemaking revises the property management requirements found in Section 2630.83.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Mr. Norman Sims, Bureau Chief
Department of Commerce and Community Affairs
Bureau of Policy Development, Planning & Research
620 East Adams Street, 2nd floor
Springfield, Illinois 62701
(217) 524-4068

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 56: LABOR AND EMPLOYMENT

CHAPTER III: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 2630

UNIFORM FISCAL AND ADMINISTRATIVE STANDARDS FOR
THE JOB TRAINING PARTNERSHIP ACT

SUBPART A: INTRODUCTION

Section
2630.2

Definitions

SUBPART B: ADMINISTRATIVE STANDARDS AND PROCEDURES

Section
2630.80
2630.81
2630.82
2630.83
2630.84
2630.85

Program Income

Insurance

Procurement

Property Management

Management Systems, Reporting, and Recordkeeping

Cash Management

SUBPART C: FISCAL STANDARDS AND PROCEDURES

Section
2630.100
2630.101
2630.102
2630.103

Allowable Costs

Classification of Costs

Limitations on Certain Costs

Matching Funds (Repealed)

SUBPART D: COST DETERMINATION

Section
2630.110
2630.111
2630.112
2630.113
2630.114

Principles for Determining Costs

Guidelines for Cost Allocation Plans

Standards for Selected Items of Cost

Indirect Cost Proposals

Suggested Bases for Cost Distribution

SUBPART E: AUDIT

Section
2630.120
2630.121
2630.122
2630.123

Audit Requirements

Oversight

Sanctions

Federal Cognizance

AUTHORITY: Implementing Section 46.41 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 46.41) and the Job Training

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENT(S)

Partnership Act (29 U.S.C.A. 1501 et seq., revised 1990) and authorized by Section 46.40(b) of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 46.40(b)).

SOURCE: Adopted at 8 Ill. Reg. 3616, effective March 12, 1984; amended at 8 Ill. Reg. 14307, effective August 2, 1984; amended at 8 Ill. Reg. 16422, effective August 31, 1984; amended at 8 Ill. Reg. 22515, effective November 5, 1984; amended at 9 Ill. Reg. 6159, effective April 24, 1985; amended at 9 Ill. Reg. 6692, effective April 25, 1985; amended at 9 Ill. Reg. 18475, effective November 18, 1985; amended at 9 Ill. Reg. 20669, effective December 16, 1985; amended at 10 Ill. Reg. 8083, effective May 6, 1986; amended at 10 Ill. Reg. 21069, effective December 5, 1986; amended at 11 Ill. Reg. 11682, effective June 29, 1987; amended at 12 Ill. Reg. 15961, effective September 26, 1988; amended at 14 Ill. Reg. 13984, effective August 20, 1990; amended at 14 Ill. Reg. 20349, effective December 7, 1990; amended at 15 Ill. Reg. 16032, effective October 24, 1991; amended at 16 Ill. Reg. 1524, effective January 13, 1992.

Section 2630.82 Procurement

- a) Procurement Systems for State Agency Grantees and Subgrantees - State agency grantees and subgrantees shall administer procurement systems in accordance with the Standard Procurement Rules of the Department of Central Management Services (44 Ill. Adm. Code 1) for selection of JTPA providers.
- b) Procurement Systems for Non-State Agency Grantees and Subgrantees - All grantees and subgrantees shall administer procurement systems. The procurement system shall take into consideration past performance (e.g., entered employment rates, cost per placement, and ability to meet contract objectives). The procurement system may consider other criteria as determined locally. The procurement system shall include the following requirements:
 - 1) Grantee/Grantor Responsibility

These standards do not relieve the grantee/subgrantee of any contractual responsibilities under its contracts. The grantee/subgrantee is responsible, in accordance with good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising out of procurements entered in support of a grant. These include but are not limited to source evaluation, protests, disputes, and claims. Violations of law are to be referred to the local, State, or Federal authority having proper jurisdiction.
 - 2) Code of Conduct
 - A) Grantees/subgrantees shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by Federal funds. Pursuant to Section 141(f) of the Act, no Private Industry Council (PIC) member shall participate in the selection or

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENT(S)

in the award of a contract supported by Federal funds if a conflict of interest, real or apparent, is involved. Additionally, no employee, officer or agent of the grantee/subgrantee, or governing body of the grantee shall participate in the selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, is involved. Such a conflict shall arise when the employee, officer or agent; any member of his or her immediate family; his or her partner; or an organization which employs any of the previously identified, has a financial or other interest in the entity selected for an award. This provision does not prohibit a community based organization, education agency, employer, or other service provider represented by a PIC member from receiving a subgrant for the provision of training and/or services to participants. However, when such a conflict of interest arises, PIC members must abstain from voting on the award of the subgrant. The grantee is prohibited from awarding a subgrant

i) to any PIC member for performing administrative services (i.e., consultant services, accounting services, etc.); or

ii) to any PIC member or entity with which he/she is affiliated which results in direct personal gain to the PIC member.

B) The grantee's/subgrantee's officers, employees or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from service providers, potential service providers (i.e., persons who perform services of type contracted for), or parties to grants.

3) Selection Procedures

A) All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with this Section. Procurement procedures shall not restrict or eliminate competition. Examples of what shall be considered to be restrictive of competition include, but are not limited to:

i) placing unreasonable or different requirements on various firms in order for them to qualify for the same procurement;

ii) noncompetitive practices between firms;

iii) organizational conflicts of interest; and

iv) unnecessary experience and bonding requirements (i.e., requests for qualifications or experience that are not related to the services to be procured).

v) non-competitive awards to consultants that are on retainer contracts; and

vi) specifying only a "brand name" product instead of

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENT(S)

allowing an "equal" product to be offered and describing the performance of other relevant requirements of the procurement.

B) The grantee/subgrantee shall have written selection procedures which shall provide, at a minimum, the following procedural requirements:

i) Solicitations of offers, whether by competitive sealed bids or competitive proposals shall incorporate a clear and accurate description of the technical requirements for the service to be procured. Such description shall not, in competitive procurements, contain features which restrict competition. The description shall include a statement of the qualitative nature of the service to be procured and set forth those standards to which the service shall conform in order to meet the program purpose. Solicitations of offers shall clearly set forth all requirements that service providers/contractors must fulfill and all other factors to be used in evaluating proposals pursuant to Section 2630.82(b)(3)(B)(iii) of this Part.

ii) Awards shall be made only to service providers/contractors that demonstrate the ability to meet objectives of the proposed procurement. Examples of how the ability to meet the procurement objects can be demonstrated include, but are not limited to: financial resources, technical qualifications, experience, organization and facilities adequate to carry out the project; resources to meet the completion schedule contained in the contract; a satisfactory performance record for completion of contracts; and accounting and auditing procedures adequate to control property, funds and assets, pursuant to Sections 2630.83(a) and (b) and 2630.84(c) through (i) of this Part.

C) Grantees/subgrantees shall conduct a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into inter-grantee agreements for procurement or use of common goods and services. Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENT(S)

NOTICE OF ADOPTED AMENDMENT(S)

- D) The grantees and subgrantees shall take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps shall include:
- i) placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - ii) assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
 - iii) dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business and women's business enterprises;
 - iv) establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business and women's business enterprises;
 - v) using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - vi) requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in subsections(b)(3)(D)(i) through (v).
- E) Contract Cost and Price
- i) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his/her estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis shall be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis shall be used in all other instances to determine the reasonableness of the proposed contract price.
 - ii) Grantees and subgrantees shall negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration shall be given to

the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

iii) Costs or prices based on estimated costs for contracts under grants shall be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with the cost principles as shown in Section 2630.110.

iv) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

v) Additionally, in the case of fixed unit price/performance based contracting, all contracts must conform to the provisions of Section 2630.105.

F) Grantee/subgrantee contracts must contain the following provisions:

i) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and shall provide for such sanctions and penalties as may be appropriate.

ii) Termination for cause and for convenience by the grantee or subgrantee, including the manner by which termination will be effected and the basis for settlement.

iii) Compliance with federal Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in U.S. Department of Labor regulations (41 CFR 60, revised as of July 1, 1989).

iv) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR 3, revised as of July 1, 1989).

v) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR 5, revised as of July 1, 1989).

vi) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR 5, revised as of July 1, 1989).

vii) Notice of Departmental requirements and regulations pertaining to reporting, if any.

viii) Notice of Departmental requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

ix) Departmental requirements and regulations pertaining

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENT(S)

to copyrights and rights in data as contained in the grant agreement.

- x) Access by the grantee, the subgrantee, the U.S. Department of Labor, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audits, examinations, excerpts, and transcriptions.
- xi) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
- xii) Compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)). Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and U.S. Environmental Protection Agency regulations (40 CFR 15, revised as of July 1, 1989).
- xiii) Mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163, effective December 22, 1975).
- xiv) Grantees and subgrantees acknowledge that receipt of funds under a contract may require compliance with Section 319 of Public Law 101-121 (31 U.S.C.A. 1352) regarding the certification and disclosure of lobbying activities with the Federal Government and agree to comply with those provisions, and all Federal rules promulgated by the Federal Grantor, which is the funding source for implementation of the Federal program; and shall require that this assurance of compliance with Federal lobbying restrictions is part of any agreement with all subrecipients or subgrantees.
- xv) Grantees and subgrantees receiving Federal funds of \$25,000 or more must provide assurance of nondebarment, nonsuspension and other responsibility matters pursuant to Executive Order 12549 and 29 CFR 98 (as published in the May 26, 1988 Federal Register at 53 FR 19188).
- G) Grantees and subgrantees shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference.
- H) Grantees and subgrantees shall make available, upon request of the Department, technical or any other specifications on

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENT(S)

proposed procurements where the Department believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review may take place prior to or after the time the specification is incorporated into a solicitation document. Grantees and subgrantees must on request make available for Departmental pre-award review, procurement documents such as Requests for Proposals or invitations for bids, and cost estimates.

- 4) Methods of Procurement - Procurement under grants shall be made by one of the following methods: procurement by small purchase procedures, procurement by sealed bids, procurement by competitive proposals, or procurement by noncompetitive proposals.
 - A) Small purchase procedures are those relatively simple (e.g., price or rate quotations documented to the file which describe what is being procured, date provided, provider, amount and delivery date) and informal procurement methods for securing services, supplies, or other property that do not cost more than \$25,000 in the aggregate with a single vendor during a fiscal year. If small purchase procurements are used, price or rate quotations will be obtained from an adequate number of qualified sources.
 - B) Sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price. The sealed bid is the preferred method for procuring construction, if the conditions which follow apply. In order for sealed bids to be feasible, the following conditions should be present: a complete, adequate and realistic specification or purchase description is available; two or more responsible bidders are willing and able to compete effectively for the business; and the procurement lends itself to a firm-fixed-price contract and the selection of the successful bidder can be made principally on the basis of price. If sealed bids are to be used, the following requirements apply:
 - i) the invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers as evidenced by documentation of an attempt to identify and obtain three bids, providing them sufficient time (a minimum of ten working days) prior to the date set for opening the bids;
 - ii) the invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
 - iii) all bids shall be publicly opened at the time and

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENT(S)

- place prescribed in the invitation for bids;
- iv) a firm-fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - v) any or all bids may be rejected if there is a sound, documented reason.
- C) Procurement by competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
- i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
 - ii) Proposals will be solicited from an adequate number of qualified sources;
 - iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;
 - iv) Award will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
 - v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- D) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source or PIC approved continuation if after solicitation of a number of sources competition is determined inadequate.
- i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and one of the following circumstances

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENT(S)

- applies: the item is available only from a single source; the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; the awarding agency Department authorizes noncompetitive proposals; or after solicitation of a number of sources, competition is determined inadequate.
- ii) Programs whose funds are allocated under Sections 202(a), 202(b)(2), 252(b), and 302(d) which are determined to be effective by the PIC using locally developed standards of effectiveness may be continued by noncompetitive proposals if the PIC reviews their performance and supports continuation of the grant.
 - iii) Cost analysis, i.e., verifying the proposed cost data, and the evaluation of the specific elements of costs and profit, is required.
- 5) Grantee Procurement Records
- Grantees shall maintain records which detail the history of a procurement. These records shall include, but are not necessarily limited to the following: the method of procurement, and the basis for the selection or rejection of a service provider, and the basis for the contract price.
- c) Sole source awards for on-the-job training of program participants may be made, provided that an employer-employee relationship exists and that the employer will provide job training to enable the participant to perform as a regular employee of the employer's (or another employer's) establishment. When such awards are made, records of the awards shall be maintained.
 - d) All grantees and subgrantees shall maintain a list of potential providers/contractors who have expressed an interest, in writing, in being considered for awards. The list shall include names, addresses, and services. All potential providers/contractors, who have expressed interest in being considered for awards, shall be sent Requests for Proposals for the area or areas of service for which they wish to be considered. The list shall be considered to be public information.
 - e) Programs determined to be effective by the Private Industry Council (PIC) using locally developed standards of effectiveness may be continued by noncompetitive proposals in accordance with subsection (b)(4)(B) provided that
 - 1) in the case of programs operated by service delivery areas as defined in Section 101 of the Act, the Private Industry Council (PIC) reviews their performance and supports continuation of the grant; and
 - 2) in the case of programs supported by funds authorized by Sections 302(b) and 301 of the Act, the Illinois Job Training Coordinating Council, in accordance with Section 122(b) of the Act, reviews their performance.

(Source: Amended at 16 Ill. Reg. 1524, effective

NOTICE OF ADOPTED AMENDMENT(S)

January 13, 1992

Section 2630.83 Property Management

- a) Personal and real property procured with grant funds must be used for grant purposes.
- b) The grantee shall maintain accountability for such property in accordance with Section 2630.84(c) and (e) of this Part.
- c) The State shall retain title to all real and non-expendable personal property.
- d) Non-expendable personal property is defined as equipment or other personal property of a tangible nature having a useful life of more than one year and having an acquisition cost of \$100 or more.
- d7e) The grantee may not purchase equipment with a unit acquisition cost greater than \$1500 without prior approval from the State.
- ef) ~~All real and non-expendable personal property is to be maintained on the State's inventory system. All real property, and non-expendable personal property with an acquisition cost of \$300 or more, shall be maintained on the State's inventory system. Non-expendable personal property with an acquisition cost of less than \$300 shall be maintained on the grantee's inventory system.~~
- f7g) Disposition of all real and non-expendable personal property will be per instructions and communications received by the grantee from the Department.
- g7h) Standards used in determining whether to grant approval include the necessity of such purchases to achieve program goals and the planned expenditure for such purposes as compared to other available prices.

(Source: Amended at 16 Ill. Reg. 1524, effective January 13, 1992)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Existing Activities In A Setback Zone or Regulated Recharge Area
- 2) Code Citation: 35 Ill. Adm. Code 615
- 3) Section Numbers: Adopted Action:
 615.101 New Section
 615.102 New Section
 615.103 New Section
 615.104 New Section
 615.105 New Section
 615.201 New Section
 615.202 New Section
 615.203 New Section
 615.204 New Section
 615.205 New Section
 615.206 New Section
 615.207 New Section
 615.208 New Section
 615.209 New Section
 615.210 New Section
 615.211 New Section
 615.301 New Section
 615.302 New Section
 615.303 New Section
 615.304 New Section
 615.305 New Section
 615.306 New Section
 615.307 New Section
 615.401 New Section
 615.402 New Section
 615.403 New Section
 615.404 New Section
 615.421 New Section
 615.422 New Section
 615.423 New Section
 615.424 New Section
 615.425 New Section
 615.441 New Section
 615.442 New Section
 615.443 New Section
 615.444 New Section
 615.445 New Section
 615.446 New Section
 615.447 New Section
 615.461 New Section
 615.462 New Section
 615.463 New Section

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

615.464 New Section
 615.501 New Section
 615.502 New Section
 615.601 New Section
 615.602 New Section
 615.603 New Section
 615.604 New Section
 615.621 New Section
 615.622 New Section
 615.623 New Section
 615.624 New Section
 615.701 New Section
 615.702 New Section
 615.703 New Section
 615.704 New Section
 615.705 New Section
 615.721 New Section
 615.722 New Section
 615.723 New Section
 615.724 New Section

4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1005, 1014.4, 1021, 1022, and 1027

5) Effective Date of Rule: January 10, 1992

6) Does this rulemaking contain an automatic repeal date?: No

7) Does this Rule contain incorporations by reference? Yes

8) Date filed in Board's Principal Office: December 6, 1991

9) Notice of Proposal Published in Illinois Register:

July 12, 1991, 15 Ill. Reg. 10303

10) Has JCAR issued a Statement of Objections to these rules? Yes

A) Statement of Objection: December 6, 1991, 15 Ill. Reg. 17791

B) Agency Response: January 24, 1992, 16 Ill. Reg. 1702

C) Date Agency Response Submitted for Approval to JCAR: December 6, 1991

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

11) Differences between proposal and final version:

There are a number of nonsubstantive typographical and grammatical corrections which the Board made during first notice and at the recommendation of JCAR staff

The Board made other changes during first notice as follows:

The term on-site was added before the terms "landfills", "land treatment units", "surface impoundments", and "waste piles" in the titles to subparts D, E, F, and G, respectively.

For Section 615.102:

The definition of "compliance point" was changed as follows:

"Compliance point" means any point that is located immediately beneath a unit boundary and within a in groundwater designated at 35 Ill. Adm. Code 620.Subpart B as a Class I through III groundwater, at a hydraulically downgradient point of groundwater flow. If groundwater flow directions vary temporarily or vertically, at which a contaminant released from the unit could pass underneath the unit boundary. There may be more than one compliance point for a particular unit.

The phrase "for any unit located within a minimum setback zone" was added in the second line of the definition of "date of first applicability".

The phrase" incorporated by reference at Section 615.103 was added in the definition of "detection" in the reference to "method detection limit"

The definition of "existing unit" was modified by addition of the phrases "the currently permitted boundary or", "if the unit is not permitted, in existence", and "Is part of a facility that"

The definition of "land application unit" was added.

The sentence "For the purposes of this Part a land application unit is a land treatment unit." was added to the definition of "land treatment unit".

The sentence "New components do not include any new components necessary for compliance with this Part." was added to the definition of "major reconstruction".

The words "or disposal" were added to the end of the definition of "pile".

The phrase "means the lowest concentration or level that can be reliably measured within specified limits of precision and accuracy during routine laboratory operating conditions in accordance with" was added to the definition of "practical quantitation limit" or "PQL".

The definition of "sludge" was added.

The phrase "within which the waste remains for more than" was added to the definition of "waste pile".

For Section 615.103, the incorporations by reference section was restructured.

The format for 615.105 was changed and the phrase "as part of any adjusted standard proceeding, site specific rulemaking or regulatory proceeding establishing the regulated recharge area" was deleted, and the phrase "pursuant to the Act" was added.

For 615.204, the word "water" was added as a modifier for the word "well". The current subsection (b)(1) replaced the subsection as proposed at first notice. The current subsection (b)(2) replaced the subsection as proposed at first notice. The text of subsection (b)(3) as proposed at first notice was deleted, and the text of subsection (b)(4) became the text of (b)(3), with the addition of the word "contains" to replace the phrase "treats and disposes". The word "adjacent" was added between the words "overlying" and "formations" in subsection (d)(3).

For 615.207, the phrase "as defined pursuant to 8 Ill. Adm. Code 255" was added to subsection (b)(3).

Subsection (b) was added to section 615.304.

For sections 615.402, 403, 404, 422, 423, 442, and 443, the phrase "use or" has been struck. The last sentence of the first notice version of each of these sections was struck.

For section 615.461, a new subsection (b) was added and the text of former subsection (b) was placed in a subsection (c).

Section 615.462 was changed to "required closure" and new text was added. The text of section 462 as proposed at first

notice was moved to Section 463, with the addition of the leading phrase "For a waste pile not subject to Section 615.462,". The text of former Section 463 was moved to section 464.

For section 615.702, the phrase "if the road oils stored and handled at the unit contain wastes" was deleted from subsection (a), and subsection (c) was deleted.

Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR? No formal agreements were issued by JCAR. However, the Board accepted several grammatical and form corrections recommended by JCAR staff.

Will this Rule replace an emergency Rule currently in effect? No

Are there any other amendments pending on this Part? No

Summary and Purpose of Rule:

Pursuant to legislative mandate contained in the Groundwater Protection Act and the Environmental Protection Act, the Board is adopting these rules for existing activities within setback zones and regulated recharge areas as defined in the rules. The activities regulated include landfilling, land treating, surface impounding, and piling of wastes; or the use of underground storage tanks or pesticide, fertilizer, road oil or de-icing agent storage and handling units, as specified in the rules.

Other related rulemakings are proposed new Parts 616 and 617 and proposed amendments to Part 601 and are contained in separate notices pertaining to those parts.

A complete description of the subjects and issues involved is contained in the Board's Opinion and Order of December 6, 1991, Board Docket, R89-5, which is available from the Clerk of the Board: Dorothy M. Gunn, Clerk, State of Illinois Pollution Control Board, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601.

Information and questions regarding this adopted rule shall be directed to:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

Michelle C. Dresdow
Illinois Pollution Control Board
P.O. Box 505
DeKalb, IL 60115
(815) 753-0947

The full text of the Adopted Rule begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 615

EXISTING ACTIVITIES IN A SETBACK ZONE OR REGULATED RECHARGE AREA

SUBPART A: GENERAL

Section
615.101
615.102
615.103
615.104
615.105

Purpose
Definitions
Incorporations by Reference
Prohibitions
General Exceptions

SUBPART B: GROUNDWATER MONITORING REQUIREMENTS

Section
615.201
615.202
615.203
615.204
615.205
615.206
615.207
615.208
615.209
615.210
615.211

Applicability
Compliance Period
Compliance with Groundwater Standards
Groundwater Monitoring System
Groundwater Monitoring Program
Contaminants to be Monitored
Sampling Frequency
Reporting
Non-Compliance Response Program
Alternate Non-Compliance Response Program
Corrective Action Program

SUBPART C: GENERAL CLOSURE AND POST-CLOSURE REQUIREMENTS

Section
615.301
615.302
615.303
615.304
615.305
615.306
615.307

Applicability
Closure Performance Standard
Certification of Closure
Survey Plat
Post-Closure Notice for Waste Disposal Units
Certification of Completion of Post-Closure Care
Post-Closure Care Period

SUBPART D: ON-SITE LANDFILLS

Section
615.401
615.402

Applicability
Required Closure of Units Located Within Minimum
Setback Zones

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

6615.603 Design and Operating Requirements
6615.604 Closure and Post-Closure Care

SUBPART J: FERTILIZER STORAGE AND HANDLING UNITS

Section
615.621
615.622
615.623
615.624

SUBPART K: ROAD OIL STORAGE AND HANDLING UNITS

Section	Applicability	Required Closure of Units Located Within Minimum Setback Zones	Groundwater Monitoring	Design and Operating Requirements for Above-Ground Storage Tanks	Closure
615.701					
615.702					
615.703					
615.704					
615.705					

SUBPART L: DE-ICING AGENT STORAGE AND HANDLING UNITS

Section	Applicability
615.721	Groundwater Monitoring
615.722	Design and Operating Requirements
615.723	Closure

AUTHORITY: Implementing and authorized by Sections 5, 14.4, 21, 222, and 27 of the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1005, 1014.4, 1021, 1022, and 1027).

SOURCE: Adopted in R89-5 at 16 Ill. Reg. 1538
effective January 10, 1992.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

Section 615.101
Purpose
SUBP

SUBPART A: GENERAL

This Part prescribes requirements and standards for the protection of groundwater for certain types of existing facilities or units located wholly or partially within a setback zone regulated by the Act or within a regulated recharge area as delineated pursuant to Section 17.4 of the Act.

This Part prescribes requirements and standards for the protection of groundwater for certain types of existing facilities or units located wholly or partially within a zone regulated by the Act or within a regulated recharge delineated pursuant to Section 17.4 of the Act.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

Section 615.102 Definitions

Except as stated in this Section, and unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part shall be the same as those used in the Act or the Illinois Groundwater Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 7451 et seq.):

"Above-ground storage tank" means a storage tank that is not an underground storage tank.

"Act" means the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1001 et seq.).

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"Certification" means a statement of professional opinion based upon knowledge and belief.

"COMMUNITY WATER SUPPLY" MEANS A PUBLIC SUPPLY WHICH SERVES OR IS INTENDED TO SERVE AT LEAST 15 SERVICE CONNECTIONS USED BY RESIDENTS OR REGULARLY SERVES AT LEAST 25 RESIDENTS. (Section 3.05 of the Act)

"Compliance point" means any point in groundwater designated at 35 Ill. Adm. Code 620. Subpart B as a Class I through III groundwater at which a contaminant released from the unit could pass underneath the unit boundary. There may be more than one compliance point for a particular unit.

"Commencement of construction" means that ALL NECESSARY FEDERAL, STATE, AND LOCAL APPROVALS HAVE BEEN OBTAINED, AND WORK AT THE SITE HAS BEEN INITIATED AND PROCEEDS IN A REASONABLY CONTINUOUS MANNER TO COMPLETION. (Section 3.58 of the Act)

"Container" means any portable device (including, but not limited to, 55 gallon drums) in which material is stored, treated, disposed of or otherwise handled. The term "container" does not include a vehicle used to transport material.

"Containerized" means being in a container.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

"CONTAMINANT" IS ANY SOLID, LIQUID, OR GASEOUS MATTER, ANY ODOR, OR ANY FORM OF ENERGY, FROM WHATEVER SOURCE. (Section 3.06 of the Act)

"CONTAMINATION" OR "CONTAMINATE", WHEN USED IN CONNECTION WITH GROUNDWATER, MEANS WATER POLLUTION OF SUCH GROUNDWATER. (Section 3.63 of the Act)

"Date of first applicability" means the effective date of this Part for any unit located within a minimum setback zone, except that:

If a unit is first incorporated into any setback zone by an ordinance or regulation that establishes a maximum setback zone, the date of first applicability is the effective date of this Part or the effective date of the ordinance or regulation that establishes the maximum setback zone, whichever is later; or

If a unit is located in a part of a regulated recharge area that was not previously part of a setback zone, the date of first applicability is the effective date of the regulation that establishes the regulated recharge area.

"De-Icing agent" means a chemical used for de-icing, including but not limited to sodium chloride and calcium chloride. Sand, ashes, or other abrasive materials that do not alter the freezing point of water are not de-icing agents.

"Detection" means the identification of a contaminant in a sample at a value equal to or greater than the:

"Method Detection Limit" or "MDL", which means the minimum concentration of a substance that can be measured as reported with 99 percent confidence that the true value is greater than zero pursuant to 56 Fed. Reg. 3526-3597; incorporated by reference at Section 615.103; or

"Method Quantitation Limit" or "MQL", which means the minimum concentration of a substance that can be measured and reported pursuant to "Test Methods for Evaluating Solid Wastes, Physical/ Chemical Methods", incorporated by reference at Section 615.103.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

"Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids, or other materials.

"Discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of any material onto or on any land or water.

"DISPOSAL" MEANS THE DISCHARGE, DEPOSIT, INJECTION, DUMPING, SPILLAGE, LEAKING OR PLACING OF ANY WASTE OR HAZARDOUS WASTE INTO OR ON ANY LAND OR WATER OR INTO ANY WELL SO THAT SUCH WASTE OR HAZARDOUS WASTE OR ANY CONSTITUENT THEREOF MAY ENTER THE ENVIRONMENT OR BE EMITTED INTO THE AIR OR DISCHARGED INTO ANY WATERS, INCLUDING GROUNDWATERS. (Section 3.08 of the Act)

"Existing unit" means a unit that was in operation or for which there is commencement of construction on or before the date of first applicability, except that a unit is not an existing unit if the unit:

Expands laterally beyond the currently permitted boundary, or the unit boundary if the unit is not permitted, in existence after the date of first applicability; or

Is part of a facility that undergoes major reconstruction after the date of first applicability; or

Reopens at any time after having submitted a certification of closure to the Agency.

"Facility" means all contiguous land and structures, other appurtenances and improvements on the land used for the treating, storing, handling, or disposal of any material which causes that unit to be regulated under this Part. A facility may consist of one or more units.

"Freeboard" means the vertical distance between the top of a tank or dike and the surface of the material contained therein.

"Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure. To demonstrate the absence,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication No. SW-846), incorporated by reference at Section 615.103.

"GROUNDWATER" MEANS UNDERGROUND WATER WHICH OCCURS WITHIN THE SATURATED ZONE AND GEOLOGIC MATERIALS WHERE THE FLUID PRESSURE IN THE PORE SPACE IS EQUAL TO OR GREATER THAN ATMOSPHERIC PRESSURE. (Section 3.64 of the Act)

"Groundwater standards" means the water quality standards for groundwater adopted by the Board under Section 8 of the Illinois Groundwater Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 7458) and found at 35 Ill. Adm. Code 620.

"HAZARDOUS WASTE" MEANS A WASTE, OR COMBINATION OF WASTES, WHICH BECAUSE OF ITS QUANTITY, CONCENTRATION, OR PHYSICAL, CHEMICAL, OR INFECTIOUS CHARACTERISTICS MAY CAUSE OR SIGNIFICANTLY CONTRIBUTE TO AN INCREASE IN MORTALITY OR AN INCREASE IN SERIOUS, IRREVERSIBLE, OR INCAPACITATING REVERSIBLE, ILLNESS; OR POSE A SUBSTANTIAL PRESENT OR POTENTIAL HAZARD TO HUMAN HEALTH OR THE ENVIRONMENT WHEN IMPROPERLY TREATED, STORED, TRANSPORTED, OR DISPOSED OF, OR OTHERWISE MANAGED, AND WHICH HAS BEEN IDENTIFIED, BY CHARACTERISTICS OR LISTING, AS HAZARDOUS PURSUANT 35 Ill. Adm. Code 721. (Section 3.15 of the Act)

"Incompatible material" means a material which may:

Cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

When commingled with another material, produces heat or pressure, fire, explosion, violent reaction, toxic dusts, mists, fumes or gases, or flammable fumes or gases.

"Landfill" means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground injection well.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

"LANDSCAPE WASTE" MEANS ALL ACCUMULATIONS OF GRASS OR SHRUBBERY CUTTINGS, LEAVES, TREE LIMBS AND OTHER MATERIALS ACCUMULATED AS THE RESULT OF THE CARE OF LAWNS, SHRUBBERY, VINES AND TREES. (Section 3.20 of the Act)

"Land application unit" means an area where wastes are agronomically spread over or disked into land or otherwise applied so as to become incorporated into the soil surface.

"Land treatment" means the application of waste onto or incorporation of waste into the soil surface. For the purposes of this Part a land application unit is a land treatment unit.

"Leachate" means any liquid, including suspended components in the liquid, that has percolated through or drained from a material.

"Licensed water well contractor" means a person licensed under the Water Well and Pump Installation Contractor's License Act (Ill. Rev. Stat. 1989, ch. 111, pars. 7101 et seq.).

"Liner" means a continuous layer of natural or manmade materials beneath or on the side of a surface impoundment, landfill, landfill cell, waste pile, or storage pile which restricts the downward or lateral escape of waste, waste constituents, leachate or stored materials.

"Major reconstruction" means commencement of construction at a facility where the fixed capital cost of the new components constructed within a 2-year period exceeds 50% of the fixed capital cost of a comparable entirely new facility. New components do not include any new components necessary for compliance with this Part.

"New unit" means a unit that is not an existing unit.

"NON-COMMUNITY WATER SUPPLY" MEANS A PUBLIC WATER SUPPLY THAT IS NOT A COMMUNITY WATER SUPPLY. (Section 3.05 of the Act)

"Non-special waste" means a waste that is not a special waste.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

"Off-site" means not on-site.

"On-site", "on the site", or "on the same site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property.

"Operator" means the person responsible for the operation of a site, facility or unit.

"Owner" means the person who owns a site, facility or unit or part of a site, facility or unit, or who owns the land on which the site, facility or unit is located.

"PESTICIDE" MEANS ANY SUBSTANCE OR MIXTURE OF SUBSTANCES INTENDED FOR PREVENTING, DESTROYING, REPELLING, OR MITIGATING ANY PEST OR ANY SUBSTANCE OR MIXTURE OF SUBSTANCES INTENDED FOR USE AS A PLANT REGULATOR, DEFOLIANT OR DESICCANT. (Section 3.71 of the Act)

"Pile" means any noncontainerized accumulation of solid, non-flowing material that is used for treatment, storage or disposal.

"POTABLE" MEANS GENERALLY FIT FOR HUMAN CONSUMPTION IN ACCORDANCE WITH ACCEPTED WATER SUPPLY PRINCIPLES AND PRACTICES. (Section 3.65 of the Act)

"Practical Quantitation Limit" or "PQL" means the lowest concentration or level that can be reliably measured within specified limits of precision and accuracy during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, incorporated by reference at Section 615.103.

"PUBLIC WATER SUPPLY" MEANS ALL MAINS, PIPES AND STRUCTURES THROUGH WHICH WATER IS OBTAINED AND DISTRIBUTED TO THE PUBLIC, INCLUDING WELLS AND WELL STRUCTURES, INTAKES AND CRIBS, PUMPING STATIONS,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

TREATMENT PLANTS, RESERVOIRS, STORAGE TANKS AND APPURTENANCES, COLLECTIVELY OR SEVERALLY, ACTUALLY USED OR INTENDED FOR USE FOR THE PURPOSE OF FURNISHING WATER FOR DRINKING OR GENERAL DOMESTIC USE AND WHICH SERVE AT LEAST 15 SERVICE CONNECTIONS OR WHICH REGULARLY SERVE AT LEAST 25 PERSONS AT LEAST 60 DAYS PER YEAR. A PUBLIC WATER SUPPLY IS EITHER A "COMMUNITY WATER SUPPLY" OR A "NON-COMMUNITY WATER SUPPLY". (Section 3.28 of the Act)

"Reactive material" means a material which meets one or more of the following criteria:

It is normally unstable and readily undergoes violent change without detonating;

It reacts violently with water;

It forms potentially explosive mixtures with water;

When mixed with water, it generates toxic gases, vapors, or fumes in a quantity sufficient to present a danger to human health or the environment;

It is capable of detonation or explosive reaction if it is subject to a strong initiating source, or if heated under confinement;

It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure; or

It is a forbidden explosive as defined in 49 CFR 173 incorporated by reference at Section 615.103, or a Class A explosive as defined in 49 CFR 173.53 or a Class B explosive as defined in 49 CFR 173.88.

"Registered land surveyor" means a person registered under the Illinois Land Surveyors Act (Ill. Rev. Stat. 1989, ch. 111, pars. 3201 et seq.).

"Registered professional engineer" means a person registered under the Illinois Professional Engineering Act (Ill. Rev. Stat. 1989, ch. 111, par. 5101 et seq.).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

"REGULATED RECHARGE AREA" MEANS A COMPACT GEOGRAPHIC AREA, AS DETERMINED BY THE BOARD PURSUANT TO SECTION 17.4 OF THE ACT, THE GEOLOGY OF WHICH RENDERS A POTABLE RESOURCE GROUNDWATER PARTICULARLY SUSCEPTIBLE TO CONTAMINATION. (Section 3.67 of the Act)

"Road oil" means slow-curing asphaltic oils which show no separation on standing and which are used for road construction, maintenance or repair.

"Runoff" means any rainwater, leachate or other liquid that drains over land from any part of a facility.

"Run-on" means any rainwater, leachate or other liquid that drains over land onto any part of a facility.

"Secondary containment structure" means any structure or basin intended to contain spills and prevent runoff or leaching from piles, containers, or tanks and related piping.

"SETBACK ZONE" MEANS A GEOGRAPHIC AREA, DESIGNATED PURSUANT TO THIS ACT, CONTAINING A POTABLE WATER SUPPLY WELL OR A POTENTIAL SOURCE OR POTENTIAL ROUTE HAVING A CONTINUOUS BOUNDARY, AND WITHIN WHICH CERTAIN PROHIBITIONS OR REGULATIONS ARE APPLICABLE IN ORDER TO PROTECT GROUNDWATERS. (Section 3.61 of the Act)

"SITE" MEANS ANY LOCATION, PLACE, TRACT OF LAND, AND FACILITIES, INCLUDING BUT NOT LIMITED TO BUILDINGS, AND IMPROVEMENTS USED FOR PURPOSES SUBJECT TO REGULATION OR CONTROL BY THIS ACT OR REGULATIONS THEREUNDER. (Section 3.43 of the Act)

"SLUDGE" MEANS ANY SOLID, SEMI-SOLID, OR LIQUID WASTE GENERATED FROM A MUNICIPAL, COMMERCIAL, OR INDUSTRIAL WASTEWATER TREATMENT PLANT, WATER SUPPLY TREATMENT PLANT, OR AIR POLLUTION CONTROL FACILITY OR ANY OTHER SUCH WASTE HAVING SIMILAR CHARACTERISTICS AND EFFECTS. (Section 3.44 of the Act)

"SPECIAL WASTE" MEANS ANY INDUSTRIAL PROCESS WASTE, POLLUTION CONTROL WASTE OR HAZARDOUS WASTE, EXCEPT AS DETERMINED PURSUANT TO SECTION 22.9 OF THE ACT AND 35 Ill. Adm. Code 808. (Section 3.45 of the Act)

"STORAGE" means the holding or containment of a material, either on a temporary basis or for a period

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

of years, in such manner as not to constitute disposal of such material.

"Surface impoundment" means a natural topographical depression, man-made excavation, or diked area that is designed to hold liquid wastes or wastes containing free liquids.

"Surface water" means all waters that are open to the atmosphere.

"Tank" means a stationary device, designed to contain an accumulation of material which is constructed of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support. The term "tank" does not include areas used to accumulate materials prior to pumping to tanks or containers (i.e., sump pits) or associated piping. The term "tank" does not include vehicles used to transport material.

"Treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any material so as to neutralize such material, or so as to recover energy or material resources from the material or so as to render such material nonhazardous or less hazardous, safer to transport, store or dispose of, or amenable for recovery, amenable for storage or reduced in volume.

"Underground storage tank" means a storage tank as defined at 35 Ill. Adm. Code 731.101(f).

"UNIT" MEANS ANY DEVICE, MECHANISM, EQUIPMENT, OR AREA (EXCLUSIVE OF LAND UTILIZED ONLY FOR AGRICULTURAL PRODUCTION). (Section 3.62 of the Act)

"Unit boundary" means a line at the land's surface circumscribing the area on which, above which or below which waste, pesticides, fertilizers, road oils or de-icing agents will be placed during the active life of the facility. The space taken up by any liner, dike or other barrier designed to contain waste, pesticides, fertilizers, road oils or de-icing agents falls within the unit boundary.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

"WASTE" MEANS ANY GARBAGE, SLUDGE FROM A WASTE TREATMENT PLANT, WATER SUPPLY TREATMENT PLANT, OR AIR POLLUTION CONTROL FACILITY OR OTHER DISCARDED MATERIAL, INCLUDING SOLID, LIQUID, SEMI-SOLID, OR CONTAINED GASEOUS MATERIAL RESULTING FROM INDUSTRIAL, COMMERCIAL, MINING AND AGRICULTURAL OPERATIONS, AND FROM COMMUNITY ACTIVITIES, BUT DOES NOT INCLUDE:

INDUSTRIAL DISCHARGES WITH NPDES PERMITS ISSUED PURSUANT TO 35 ILL. ADM. CODE 309;

SOURCE, SPENT NUCLEAR, OR BY-PRODUCT MATERIALS AS DEFINED BY THE ATOMIC ENERGY ACT OF 1954 (42 U.S.C. 2014);

ANY SOLID OR DISSOLVED MATERIAL FROM ANY MATERIAL SUBJECT TO 62 ILL. ADM. CODE 1700 THROUGH 1850. (Section 3.53 of the Act)

"Waste pile" means a pile consisting of waste that has a total volume greater than 10 cubic yards or within which the waste remains for more than 90 days.

"WATERS" MEANS ALL ACCUMULATIONS OF WATER, SURFACE AND UNDERGROUND, NATURAL AND ARTIFICIAL, PUBLIC AND PRIVATE, OR PARTS THEREOF, WHICH ARE WHOLLY OR PARTLY WITHIN, FLOW THROUGH, OR BORDER UPON THIS STATE. (Section 3.56 of the Act)

"WELL" MEANS A BORED, DRILLED OR DRIVEN SHAFT, OR DUG HOLE, THE DEPTH OF WHICH IS GREATER THAN THE LARGEST SURFACE DIMENSION. (Section 3.57 of the Act)

Section 615.103 Incorporations by Reference

a) The Board incorporates the following material by reference:

GPO. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401, (202) 783-3238;

National Primary Drinking Water Regulations, Final Rule, 56 Fed. Reg. 3526-3597 (January 30, 1991).

Shippers-General Requirements for Shipments and Packagings, 49 CFR 173 (1990).

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

NTIS. National Technical Information Service,
5285 Port Royal Road, Springfield VA 22161, (703)
487-4600.

"Test Methods for Evaluating Solid Wastes,
Physical/Chemical Methods", EPA Publication
No. SW-846 (Third Edition, 1986, as amended
by Revision I (December 1987), Doc. No. PB
89-148076).

- b) This Section incorporates no later amendments or editions.

Section 615.104 Prohibitions

No person shall cause or allow the construction or operation of any facility or unit in violation of the Act or regulations adopted by the Board thereunder, including but not limited to this Part.

Section 615.105 General Exceptions

- a) This Part does not apply to any facility or unit, or to the owner or operator of any facility or unit:
- 1) For which the owner or operator obtains certification of minimal hazard pursuant to Section 14.5 of the Act; or
 - 2) For which alternate requirements are imposed in an adjusted standard proceeding or as part of a site-specific rulemaking, pursuant to Title VII of the Act; or
 - 3) For which alternate requirements are imposed in a regulated recharge area proceeding pursuant to Section 17.4 of the Act; or
 - 4) That is LOCATED ON THE SAME SITE AS A NON-COMMUNITY WATER SYSTEM WELL AND FOR WHICH THE OWNER IS THE SAME FOR BOTH THE facility or unit AND THE WELL. (Section 14.4(b) of the Act); or
 - 5) That is located WITHIN A REGULATED RECHARGE AREA AS DELINEATED in 35 Ill. Adm. Code 617, PROVIDED THAT:

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

- A) THE BOUNDARY OF THE LATERAL AREA OF INFLUENCE OF A COMMUNITY WATER SUPPLY WELL LOCATED WITHIN THE REGULATED RECHARGE AREA does not INCLUDE SUCH facility or unit THEREIN;

- B) THE DISTANCE FROM THE WELHEAD OF THE COMMUNITY WATER SUPPLY TO THE facility or unit EXCEEDS 2500 FEET; AND

- C) THE COMMUNITY WATER SUPPLY WELL WAS not IN EXISTENCE PRIOR TO JANUARY 1, 1988.

(Section 14.4(b) of the Act).

- b) Nothing in this Section shall limit the authority of the Board to impose requirements on any facility or unit within any portion of any setback zone or regulated recharge area pursuant to the Act.

SUBPART B: GROUNDWATER MONITORING REQUIREMENTS

Section 615.201 Applicability

This Subpart applies to:

- a) Surface impoundments subject to Subpart F;
- b) Pesticide storage and handling units subject to Subpart I;
- c) Fertilizer storage and handling units subject to Subpart J;
- d) Road oil storage and handling units subject to Subpart K; and
- e) De-icing agent storage and handling units subject to Subpart L.

Section 615.202 Compliance Period

The compliance period is the active life of the unit, including closure and post-closure care periods.

- a) The active life begins when the unit first begins operation or one year after the date of first applicability, whichever occurs later, and ends when the post-closure care period ends.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- b) The post-closure care period for units other than pesticide storage and handling units subject to Subpart I and fertilizer storage and handling units subject to Subpart J is five years after closure, except as provided at Section 615.211(e).
- c) The post-closure care period for pesticide storage and handling units subject to Subpart I and for fertilizer storage and handling units subject to Subpart J is three years after closure, except as provided at Section 615.211(e).
- d) Subsections (a), (b) and (c) notwithstanding, no post-closure care period is required if all waste, waste residues, contaminated containment system components and contaminated subsoils are removed or decontaminated at closure, and no ongoing corrective action is required pursuant to Section 615.211.

Section 615.203

Compliance with Groundwater Standards

The owner or operator shall comply with the groundwater standards.

- a) The term of compliance is the compliance period.
- b) Compliance shall be measured at the compliance point, or compliance points if more than one such point exists.

Section 615.204

Groundwater Monitoring System

- a) Except as provided otherwise in subsection (b), the groundwater monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield groundwater samples, that:
 - 1) Represent the quality of background water that has not been affected by contamination from the facility or unit; and
 - 2) Represent the quality of groundwater at the compliance point or points.
- b) If a potable water well or other water well can be used as a monitoring well pursuant to this subsection, no additional monitoring wells are required under this

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

Section. A potable water well or other water well may be used as a monitoring well if:

- 1) For a potable water well other than a community water supply well, a construction report has been filed with the Illinois Department of Public Health for such well, or such well has been located and constructed (or reconstructed) to meet the Illinois Water Well Construction Code (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 116.111 et seq.) and 35 Ill. Adm. Code 920;
 - 2) For a water well other than a potable water well (e.g., a livestock watering well or an irrigation well), the owner or operator of the unit seeking to use the well as a monitoring well certifies to the Agency that a construction report has been filed with the Illinois Department of Public Health or the Illinois Department of Mines and Minerals for such well, or that such well has been located and constructed (or reconstructed) to meet the Illinois Water Well Construction Code (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 116.111 et seq.) and 35 Ill. Adm. Code 920; and
 - 3) The unit contains solely non-special waste if the unit is a surface impoundment.
- c) If a facility contains more than one unit, separate groundwater monitoring systems are not required for each unit, provided that provisions for sampling the groundwater will enable detection and measurement of contaminants that have entered the groundwater from all units.
- d) All monitoring wells must meet the following requirements:
- 1) Construction must be done in a manner that will enable the collection of groundwater samples;
 - 2) Casings and screens must be made from durable material that is resistant to expected chemical or physical degradation and that does not interfere with the quality of groundwater samples being collected; and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- 3) The annular space opposite the screened section of the well (i.e., the space between the bore hole and well screen) must be filled with gravel or sand if necessary to collect groundwater samples. The annular space above and below the well screen must be sealed to prevent migration of water from overlying adjacent formations and the surface to the sampled depth.

Section 615.205 Groundwater Monitoring Program

The owner or operator shall develop a groundwater monitoring program that consists of:

- a) Consistent sampling and analysis procedures that are designed to ensure monitoring results that provide a reliable indication of groundwater quality below the unit. At a minimum the program must include procedures and techniques for:
 - 1) Sample collection;
 - 2) Sample preservation and shipment;
 - 3) Analytical procedures; and
 - 4) Chain of custody control.
- b) Sampling and analytical methods that are appropriate for groundwater monitoring and that allow for detection and quantification of contaminants specified in this Subpart, and that are consistent with the sampling and analytical methods specified in 35 Ill. Adm. Code 620.
- c) A determination of the groundwater head elevation each time groundwater is sampled. A determination of the groundwater head elevation is not required for samples taken from a potable well used as a monitoring well pursuant to Section 615.204(b).
- d) A determination at least annually of the groundwater flow rate and direction.
- e) If the owner or operator determines that the groundwater monitoring program no longer satisfies the requirements of this Section, the owner or operator shall, within 90 days, make appropriate changes to the program and shall notify the Agency of such changes

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

when submitting the groundwater monitoring reports under Section 615.208.

Section 615.206 Contaminants to be Monitored

- a) The owner or operator shall monitor for all parameters that meet the following criteria, except as provided in subsections (b) and (c):
 - 1) Material containing such parameter is stored, disposed of, or otherwise handled at the site; and
 - 2) There is a groundwater standard for such parameter.
- b) The owner or operator of a unit subject to Subpart I for the storage and handling of pesticides shall monitor for five specific pesticides or five groups of chemically-similar pesticides stored or handled at the unit that are the most likely to enter into the groundwater from the unit and that are the most toxic. The owner or operator shall choose the five specific pesticides or five groups based upon the following criteria:
 - 1) The volume of material stored or handled at the unit;
 - 2) The leachability characteristics of the pesticides stored or handled at the unit;
 - 3) The toxicity characteristics of the pesticides stored or handled at the unit;
 - 4) The history of spillage of the pesticides stored or handled at the unit; and
 - 5) Any groundwater standards for the pesticides stored or handled at the unit.
- c) The owner or operator of a unit subject to Subpart J for the storage and handling of fertilizers shall monitor for pH, specific conductance, total organic carbon, nitrates as nitrogen, and ammonia nitrogen.

Section 615.207 Sampling Frequency

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- a) The owner or operator shall determine whether groundwater standards have been exceeded at each monitoring well at least quarterly during the compliance period, except as provided otherwise in subsections (b), (c) or Section 615.209(b).
- b) The owner or operator of a unit subject to Subpart I for the storage and handling of pesticides or Subpart J for the storage and handling of fertilizer may substitute the quarterly determination of subsection (a) with a determination at least semi-annually provided that all of the following conditions are met:
- 1) The unit is in compliance with the containment requirements of 8 Ill. Adm. Code 255;
 - 2) There have been no detections within the preceding two years in any of the monitoring wells of any contaminant stored or handled at the facility or of any contaminant attributable to operation of the unit; and
 - 3) No reportable agricultural spills, as defined pursuant to 8 Ill. Adm. Code 255, have occurred at the facility within the previous two years.
- c) The owner or operator of a unit subject to Subpart K for the storage and handling of road oils or Subpart L for the storage and handling of de-icing agents shall determine whether groundwater standards have been exceeded at each monitoring well at least annually during the compliance period, except as provided at Section 615.209(b).

Section 615.208

Reporting

The owner or operator shall submit results of all monitoring required pursuant to this Subpart to the Agency within 60 days after completion of sampling.

Section 615.209 Non-Compliance Response Program

If monitoring results collected pursuant to Sections 615.206 and 615.207 show that a groundwater standard has been exceeded, the owner or operator shall:

- a) Notify the Agency of this finding when submitting the groundwater monitoring results required pursuant to

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- Section 615.208. The notification must indicate which groundwater standards have been exceeded.
- b) Resample the groundwater within 3 days in all monitoring wells where a groundwater standard has been exceeded and redetermine the presence and concentration of each parameter required pursuant to Section 615.206, except that:
- 1) If the unit is subject to Subpart I for the storage and related handling of pesticides, resample the groundwater within 3 days in all monitoring wells where a groundwater standard has been exceeded and determine the presence and concentration in each such sample of each pesticide previously and presently stored or handled at the unit.
 - 2) If the unit is subject to Subpart J for the storage and related handling of fertilizers, monitor monthly for the parameters set forth in Section 615.206(c) until the groundwater standard is no longer exceeded.
- c) Submit the results of sampling required under subsection (b) when submitting the groundwater results required pursuant to Section 615.208.
- d) Prepare an engineering feasibility plan for a corrective action program designed to achieve the requirements of Section 615.211. This plan shall be submitted to the Agency in writing within 120 days after the date on which the sample results are submitted to the Agency pursuant to subsection (c), unless:
- 1) None of the parameters identified under subsection (b) exceed the groundwater standards; or
 - 2) The owner or operator makes a demonstration pursuant to Section 615.210.
- e) Begin the corrective action program specified in subsection (d) within 120 days after the date on which the sample results are submitted to the Agency pursuant to subsection (c), unless:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- 1) None of the parameters identified under subsection (b) exceed the groundwater standards; or
- 2) The owner or operator makes a demonstration pursuant to Section 615.210.

Section 615.210 Alternate Non-Compliance Response Program

If the groundwater sampling required pursuant to Section 615.207 shows that a groundwater standard has been exceeded, it is presumed that contamination from the facility or unit that is being monitored is responsible for the standard being exceeded. An owner or operator may overcome that presumption by making a demonstration that a source other than the facility or unit that is being monitored caused the exceedence or that the exceedence resulted from error in sampling, analysis or evaluation. In making such demonstration the owner or operator shall:

- a) Notify the Agency that the owner or operator intends to make a demonstration under this Section when submitting the groundwater monitoring results required pursuant to Section 615.208.
- b) Submit a report to the Agency that demonstrates that a source other than a facility or unit for which he is the owner or operator caused the groundwater standard to be exceeded, or that the groundwater standard was exceeded due to an error in sampling, analysis or evaluation. Such report must be included with the next submission of groundwater monitoring results required pursuant to Section 615.208; and
- c) Continue to monitor in accordance with the groundwater monitoring program established pursuant to Sections 615.205, 615.206, and 615.207.

Section 615.211 Corrective Action Program

An owner or operator required to conduct a corrective action program pursuant to this Subpart shall:

- a) Begin corrective action within 120 days after the date on which the sample results are submitted to the Agency pursuant to Section 615.209(c).
- b) Take corrective action that results in compliance with the groundwater standards at the compliance point or points.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- c) Establish and implement a groundwater monitoring program to demonstrate the effectiveness of the corrective action program.
- d) Take corrective action that maintains compliance with the groundwater standards:
 - 1) At all compliance points; and
 - 2) Beyond the unit boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the Agency that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. The owner or operator is not relieved of responsibility to clean up a release that has migrated beyond the unit boundary where off-site access is denied.
- e) Continue corrective action measures during the compliance period to the extent necessary to ensure that the groundwater standard is not exceeded at the compliance point or points. If the owner or operator is still conducting corrective action at the end of the compliance period, the owner or operator shall continue that corrective action for as long as necessary to achieve compliance with the groundwater standards. The owner or operator may terminate corrective action measures taken beyond the compliance period if the owner or operator can demonstrate, based on data from the groundwater monitoring program under subsection (c), that the groundwater standards have not been exceeded for a period of three consecutive years.
- f) Report in writing to the Agency on the effectiveness of the corrective action program. The owner or operator shall submit these reports semi-annually.
- g) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this Section, the owner or operator shall, within 90 days, make any appropriate changes to the program.

SUBPART C: GENERAL CLOSURE AND POST-CLOSURE REQUIREMENTS

Section 615.301 Applicability

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

This Subpart applies to:

- a) Land treatment units subject to Subpart E;
- b) Surface impoundments subject to Subpart F;
- c) Pesticide storage and handling units subject to Subpart I; and
- d) Fertilizer storage and handling units subject to Subpart J.

Section 615.302 Closure Performance Standard

The owner or operator shall close the unit in a manner that:

- a) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of waste, waste constituents, leachate, contaminated runoff or waste decomposition products to soils, groundwaters, surface waters, and the atmosphere;
- b) Minimizes the need for maintenance during and beyond the post-closure care period; and
- c) Complies with the closure requirements of 35 Ill. Adm. Code: Subtitles C and G.

Section 615.303 Certification of Closure

Within 60 days after completion of closure, the owner or operator shall submit to the Agency, by registered or certified mail, a certification that the unit has been closed in accordance with the closure requirements. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the Agency upon request.

Section 615.304 Survey Plat

- a) No later than the submission of the certification of closure of each unit, the owner or operator shall submit to any local zoning authority, or authority with jurisdiction over local land use, and to the Agency, and record with land titles, a survey plat indicating the location and dimensions of any waste disposal units, and any pesticide or fertilizer

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

storage and handling units, with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a registered land surveyor.

- b) For pesticide storage and handling units or for fertilizer storage and handling units, records or reports required under any other state or Federal regulatory program and which contain the information required above may be used to satisfy this reporting requirement.

Section 615.305 Post-Closure Notice for Waste Disposal Units

No later than 60 days after certification of closure of the unit, the owner or operator of a unit subject to Subpart D or F shall submit to the Agency, to the County Recorder and to any local zoning authority or authority with jurisdiction over local land use, a record of the type, location and quantity of wastes disposed of within each cell or other area of the unit.

Section 615.306 Certification of Completion of Post-Closure Care

No later than 60 days after completion of the established post-closure care period, the owner or operator shall submit to the Agency, by registered or certified mail, a certification that the post-closure care period for the unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the Agency upon request.

Section 615.307 Post-Closure Care Period

The post-closure care period is as defined at Section 615.202.

SUBPART D: ON-SITE LANDFILLS

Section 615.401 Applicability

This Subpart applies to existing landfill units that are located wholly or partially within a setback zone or regulated recharge area and that contain special waste or other waste generated on-site, except that this Subpart does not apply to any existing landfill unit that:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- a) Contains solely one or more of the following: hazardous waste, livestock waste, landscape waste, or construction and demolition debris; or

- b) Is exempt from this Part pursuant to Section 615.105.

Section 615.402 Required Closure of Units Located Within Minimum Setback Zones

No person shall cause or allow the operation within a minimum setback zone of any landfill unit commencing two years after the effective date of this Part. Closure shall be completed three years after the effective date of this Part.

Section 615.403 Required Closure of Units Located Within Maximum Setback Zones

No person shall cause or allow the operation within a maximum setback zone of any landfill unit at which special waste is disposed, commencing two years after the effective date of the ordinance or regulation that establishes the maximum setback zone. Closure shall be completed within three years after the effective date of the ordinance or regulation that establishes the maximum setback zone.

Section 615.404 Required Closure of Units Located Within Regulated Recharge Areas

No person shall cause or allow the operation within a regulated recharge area of any landfill unit that contains special waste and for which the distance from the wellhead of the community water supply well to any part of the landfill unit is 2500 feet or less. This provision becomes effective four years after the date on which the Board establishes the regulated recharge area. Closure shall be completed within five years after the date on which the Board establishes the regulated recharge area.

SUBPART E: ON-SITE LAND TREATMENT UNITS

Section 615.421 Applicability

This Subpart applies to existing land treatment units that are located wholly or partially within a setback zone or regulated recharge area and that treat or dispose of special waste or other waste generated on-site, except that this Subpart does not apply to any existing land treatment unit that:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- a) Contains solely one or more of the following: hazardous waste, livestock waste, landscape waste, or construction and demolition debris; or

- b) Is exempt from this Part pursuant to Section 615.105.

Section 615.422 Required Closure of Units Located Within Minimum Setback Zones

No person shall cause or allow the operation within a minimum setback zone of any land treatment unit commencing two years after the effective date of this Part. Closure shall be completed within three years after the effective date of this Part.

Section 615.423 Required Closure of Units Located Within Maximum Setback Zones

No person shall cause or allow the operation within a maximum setback zone of any land treatment unit at which special waste is treated or disposed, commencing two years after the effective date of the ordinance or regulation that establishes the maximum setback zone. Closure shall be completed within three years after the effective date of the ordinance or regulation that establishes the maximum setback zone.

Section 615.424 Land Treatment of Sludges in Maximum Setback Zones

Nothing in this Subpart shall prohibit land treatment within a maximum setback zone of sludge resulting from the treatment of domestic wastewater or of sludge resulting from the treatment of water to produce potable water, if such activities are conducted in accordance with the Act and 35 Ill. Adm. Code: Subtitle C.

Section 615.425 Closure and Post-Closure Care

The owner or operator shall comply with the requirements of Sections 615.302 and 615.303.

SUBPART F: ON-SITE SURFACE IMPOUNDMENTS

Section 615.441 Applicability

This Subpart applies to existing surface impoundment units that are located wholly or partially within a setback zone or regulated recharge area and that contain special waste or other

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

waste generated on-site, except that this Subpart does not apply to any existing surface impoundment unit that:

- a) Contains solely one or more of the following: hazardous waste, livestock waste, landscape waste, or construction and demolition debris; or
- b) Is exempt from this Part pursuant to Section 615.105.

Section 615.442 Required Closure of Units Located Within Minimum Setback Zones

No person shall cause or allow the operation within a minimum setback zone of any surface impoundment unit commencing two years after the effective date of this Part. Closure shall be completed within three years after the effective date of this Part.

Section 615.443 Required Closure of Units Located Within Maximum Setback Zones

No person shall cause or allow the operation within a maximum setback zone of any surface impoundment unit at which special waste is stored, treated or disposed, commencing two years after the effective date of the ordinance or regulation that establishes the maximum setback zone. Closure shall be completed within three years after the effective date of the ordinance or regulation that establishes the maximum setback zone.

Section 615.444 Groundwater Monitoring

The owner or operator shall comply with the requirements of Subpart B.

Section 615.445 Inspection Requirements

While a surface impoundment is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

- a) Deterioration, malfunctions or improper operation of overtopping control systems;
- b) Sudden drops in the level of the impoundment's contents;
- c) Severe erosion or other signs of deterioration in dikes or other containment devices; or

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

- d) A leaking dike.

Section 615.446 Operating Requirements

- a) No person shall cause or allow incompatible materials to be placed in the same surface impoundment unit.
- b) A surface impoundment unit must be removed from service in accordance with subsection (c) when:
 - 1) The level of liquids in the unit suddenly drops and the drop is not known to be caused by changes in the flows into or out of the unit; or
 - 2) The dike leaks.

- c) When a surface impoundment unit must be removed from service as required by subsection (b), the owner or operator shall:
 - 1) Shut off the flow or stop the addition of wastes into the impoundment unit;
 - 2) Contain any surface leakage that has occurred or is occurring;
 - 3) Stop the leak;
 - 4) Take any other necessary steps to stop or prevent catastrophic failure;
 - 5) If a leak cannot be stopped by any other means, empty the impoundment unit; and
 - 6) Notify the Agency of the removal from service and corrective actions that were taken, such notice to be given within 10 days after the removal from service.

- d) No surface impoundment unit that has been removed from service in accordance with the requirements of this Section may be restored to service unless the portion of the unit that failed has been repaired.

- e) A surface impoundment unit that has been removed from service in accordance with the requirements of this Section and that is not being repaired must be closed in accordance with the provisions of Section 615.447.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

Subpart 615.447 Closure and Post-Closure Care

- a) If closure is to be by removal, the owner or operator shall remove all waste, all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils and structures and equipment contaminated with waste and leachate; and, if disposed of in the State of Illinois, dispose of them at a disposal site permitted by the Agency under the Act.
- b) If closure is not to be by removal, the owner or operator shall comply with the requirements of Subpart C and shall:
- 1) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues.
 - 2) Stabilize remaining wastes to a bearing capacity sufficient to support final cover.
 - 3) Cover the surface impoundment unit with a final cover consisting of at least a 2-foot thick layer of compacted clay with a permeability of no more than 1×10^{-7} centimeters per second and designed and constructed to:
 - A) Provide long-term minimization of the migration of liquids through the closed impoundment unit;
 - B) Function with minimum maintenance;
 - C) Promote drainage and minimize erosion or abrasion of the final cover; and
 - D) Accommodate settling and subsidence so that the cover's integrity is maintained.
- c) If some waste residues or contaminated materials are left in place at final closure, the owner or operator shall comply with the requirements of Subpart C and shall:
- 1) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

as necessary to correct the effects of settling, subsidence, erosion or other events;

- 2) Maintain and monitor the groundwater monitoring system; and
- 3) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

SUBPART G: ON-SITE WASTE PILES

Section 615.461 Applicability

This Subpart applies to existing waste piles that are located wholly or partially within a setback zone or regulated recharge area and that contain special waste or other waste generated on-site, except that this Subpart does not apply to any existing waste pile that:

- a) Contains solely one or more of the following: hazardous waste, livestock waste, landscape waste, or construction and demolition debris;
- b) Consists of sludge resulting from the treatment of wastewater from a Publicly Owned Treatment Works (POTW) and the sludge pile is situated on an underdrained pavement and operated in accordance with the Act, 35 Ill. Adm. Code: Subtitle C and 35 Ill. Adm. Code: Subtitle G; or
- c) Is exempt from this Part pursuant to Section 615.105.

Section 615.462 Required Closure

A waste pile is deemed to be a landfill and thereby subject to the closure requirements of Subpart E unless the operator can demonstrate to the Agency that the wastes are not accumulated over time for disposal. At the minimum, such demonstration shall include photographs, records, or other observable or discernable information, maintained on a yearly basis, that show that within the preceding year the waste has been removed for utilization or disposed elsewhere.

Section 615.463 Design and Operating Requirements

For a waste pile not subject to Section 615.462,

- a) The owner or operator shall not cause or allow:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- 1) Disposal or storage in the waste pile of liquids or materials containing free liquids; or
 - 2) Migration and runoff of leachate into adjacent soil, surface water, or groundwater.
- b) The waste pile must comply with the following standards:
- 1) The waste pile must be under an impermeable membrane or cover that provides protection from precipitation;
 - 2) The waste pile must be protected from surface water run-on; and
 - 3) The waste pile must be designed and operated to control wind dispersal of waste by a means other than wetting.
- c) This Section becomes applicable six months after the date of first applicability.

Section 615.464 Closure

The owner or operator shall accomplish closure by removing and disposing of all wastes and containment system components (liners, etc). If disposed of in the State of Illinois, the waste and containment system components must be disposed of at a disposal site permitted by the Agency under the Act.

SUBPART H: UNDERGROUND STORAGE TANKS

Section 615.501 Applicability

This Subpart applies to existing underground storage tanks that are located wholly or partially within a setback zone or regulated recharge area and that contain special waste, except that this Subpart does not apply to any existing underground storage tank that:

- a) Pursuant to 35 Ill. Adm. Code 731.110(a) must meet the requirements set forth in 35 Ill. Adm. Code 731, unless such a tank is excluded from those requirements pursuant to 35 Ill. Adm. Code 731.110(b); or
- b) Must have interim status or a RCRA permit under 35 Ill. Adm. Code: Subtitle G; or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- c) Is exempt from this Part pursuant to Section 615.105.
- Section 615.502 Design and Operating Requirements

Owners and operators of existing underground storage tanks that store special waste shall meet the requirements set forth in 35 Ill. Adm. Code 731. Such requirements must be met even if the tanks are excluded from coverage under 35 Ill. Adm. Code 731 by 35 Ill. Adm. Code 731.110(b). The exclusions set forth in 35 Ill. Adm. Code 731.110(b) do not apply to any underground storage tank which stores special waste.

SUBPART I: PESTICIDE STORAGE AND HANDLING UNITS

Section 615.601 Applicability

This Subpart applies to any existing unit for the storage and handling of pesticides that is located wholly or partially within a setback zone or regulated recharge area and that:

- a) Is operated for the purpose of commercial application; or
- b) Stores or accumulates pesticides prior to distribution to retail sales outlets, including but not limited to a unit that is a warehouse or bulk terminal.
- c) Subsections (a) and (b) notwithstanding, this Subpart does not apply to any unit exempt pursuant to Section 615.105.

Section 615.602 Groundwater Monitoring

The owner or operator shall comply with the requirements of Subpart B.

Section 615.603 Design and Operating Requirements

The owner or operator shall:

- a) Maintain a written record inventorying all pesticides stored or handled at the unit.
- b) At least weekly when pesticides are being stored, and inspect storage containers, tanks, vents, valves, and appurtenances for leaks or deterioration caused by corrosion or other factors. If a leak or deterioration is found in any of these devices, the owner or operator

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

must immediately repair or replace the device. The owner or operator shall maintain a written record of all inspections conducted under this Section and of all maintenance relating to leaks and deterioration of these devices.

- c) Store all containers containing pesticides within a pesticide secondary containment structure, if such containers are stored outside of a roofed structure or enclosed warehouse. For the purpose of this subsection a pesticide secondary containment structure is a structure that complies with the design standards set forth in 8 Ill. Adm. Code 255.

- d) Maintain all written records required under this Section at the site. The owner or operator shall provide any such record to the Agency upon request.

(Board Note: Owners or operators of facilities or units subject to this Part may also be subject to regulations under 8 Ill. Adm. Code 255.)

Section 615.604 Closure and Post-Closure Care

The owner or operator shall comply with the requirements of Subpart C.

SUBPART J: FERTILIZER STORAGE AND HANDLING UNITS

Section 615.621 Applicability

This Subpart applies to any existing unit for the storage and handling of fertilizers that is located wholly or partially within a setback zone or regulated recharge area and that:

- a) Is operated for the purpose of commercial application; or
- b) Stores or accumulates fertilizers prior to distribution to retail sales outlets, including but not limited to a unit that is a warehouse or bulk terminal.
- c) Subsections (a) and (b) notwithstanding, this Subpart does not apply to any unit exempt pursuant to Section 615.105.

Section 615.622 Groundwater Monitoring

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

The owner or operator shall comply with the requirements of Subpart B.

Section 615.623 Design and Operating Requirements

The owner or operator shall:

- a) Maintain a written record inventorying all fertilizers stored or handled at the unit.
- b) At least weekly when fertilizers are being stored, inspect storage containers, tanks, vents, valves, and appurtenances for leaks or deterioration caused by corrosion or other factors. If a leak or deterioration is found in any of these devices, the owner or operator shall immediately repair or replace the device. The owner or operator shall maintain a written record of all inspections conducted under this Section and of all maintenance relating to leaks and deterioration of these devices.
- c) Store all containers containing fertilizers (except anhydrous ammonia) within a fertilizer secondary containment structure, if such containers are stored outside of a roofed structure or enclosed warehouse. For the purpose of this subsection, a fertilizer secondary containment structure is a structure that complies with the design standards set forth in 8 Ill. Adm. Code 255.
- d) Maintain all written records required under this Section at the site. The owner or operator shall provide any such record to the Agency upon request.

(Board Note: Owners or operators of facilities or units subject to this Part may also be subject to regulations under 8 Ill. Adm. Code 255.)

Section 615.624 Closure and Post-Closure Care

The owner or operator shall comply with the requirements of Subpart C.

SUBPART K: ROAD OIL STORAGE AND HANDLING UNITS

Section 615.701 Applicability

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

This Subpart applies to any existing unit for the storage and related handling of road oils that is located wholly or partially within a setback zone or regulated recharge area and at which greater than 25,000 gallons of road oils are stored or accumulated at any one time, except as otherwise provided in Section 615.105.

Section 615.702 Required Closure of Units Located Within Minimum Setback Zones

- a) No person shall cause or allow the operation within a minimum setback zone of any road oil storage and handling unit.
- b) Subsection (a) is effective two years after the effective date of this Part. Closure must be completed within three years after the effective date of this Part.

Section 615.703 Groundwater Monitoring

The owner or operator shall comply with the requirements of Subpart B.

Section 615.704 Design and Operating Requirements for Above-Ground Storage Tanks

- a) The owner or operator shall not cause or allow:
 - 1) Materials to be placed in a tank if such materials could cause the tank to rupture, leak, corrode, or otherwise fail.
 - 2) Uncovered tanks to be placed or operated so as to maintain less than 60 centimeters (2 feet) of freeboard unless:
 - A) The tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank); and
 - B) Such containment structure, drainage control system, or diversion structure has a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- 3) Material to be continuously fed into a tank, unless the tank is equipped with a means to stop this inflow (e.g., a feed cutoff system or a bypass system to a standby tank).
- 4) Incompatible materials to be placed in the same tank.
- 5) Material to be placed in a tank that previously held an incompatible material unless the incompatible material has been washed from the tank.
- 6) Ignitable or reactive material to be placed in a tank unless:
 - A) The material is stored or treated in such a way that it is protected from any material or conditions that may cause it to ignite or react; or
 - B) The tank is used solely for emergencies.
- b) The owner or operator shall provide and maintain primary containment for the tank such that:
 - 1) The tank has a minimum shell thickness that ensures that the tank will not fail (i.e., collapse, rupture, etc.).
 - 2) The tank is compatible with the material to be placed in the tank or the tank is lined with a substance that is compatible with the material to be placed on the tank.
- c) The owner or operator shall provide and maintain secondary containment for the tank that:
 - 1) Is capable of containing the volume of the largest tank or 10% of the total volume for all tanks, whichever is greater;
 - 2) Is constructed of material capable of containing a spill until cleanup occurs (e.g., concrete or clay). The base of the secondary containment area must be capable of minimizing vertical migration of a spill until cleanup occurs (e.g., concrete or clay);

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

- 3) Has cover (e.g., crushed rock or vegetative growth) on earthen embankments sufficient to prevent erosion; and
- 4) Isolates the tank from storm water drains and from combined storm water drains and sewer drains.
- d) If incompatible materials are handled at the site, secondary containment sufficient to isolate the units containing the incompatible materials must be provided.
- e) The owner or operator of a tank shall also:
 - 1) Test above-ground tanks and associated piping every five years for structural integrity.
 - 2) Remove uncontaminated storm water runoff from the secondary containment area immediately after a precipitation event.
 - 3) Handle contaminated storm water runoff in accordance with 35 Ill. Adm. Code 302.Subpart A.
 - 4) Provide a method for obtaining a sample from each tank.
 - 5) Install, maintain, and operate a material level indicator on each tank.
 - 6) When not in use, lock all gauges and valves that are used to inspect levels in the tank. All such devices must be located within the containment structure.
- f) This section becomes applicable two years after the date of first applicability.

Section 615.705 Closure

- a) At closure, all materials must be removed from containers, tanks, discharge control equipment, and discharge confinement structures.
- b) All materials that are to be disposed of in the State of Illinois must be disposed of at a disposal site permitted by the Agency under the Act.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

SUBPART L: DE-ICING AGENT STORAGE AND HANDLING UNITS
Section 615.721 Applicability

This Subpart applies to any existing unit for the storage and related handling of de-icing agents that is located wholly or partially within a setback zone and at which more than 50,000 pounds of de-icing agent are stored or accumulated at any one time, except as otherwise provided in Section 615.105. For the purpose of this Subpart:

- a) An indoor storage unit means a storage unit with a roof capable of protecting de-icing agents from wind and precipitation;
- b) An outdoor storage unit means a unit for the storage of de-icing agents that is not an indoor storage unit.

Section 615.722 Groundwater Monitoring

The owner or operator shall comply with the requirements of Subpart B.

Section 615.723 Design and Operating Requirements

- a) Indoor facilities must comply with the following standards beginning two years after the date of first applicability:
 - 1) The base of the facility must be constructed of materials capable of containing de-icing agents (i.e., bituminous or concrete pad).
 - 2) The roof and walls of the facility must be constructed of materials capable of protecting the storage pile from precipitation and capable of preventing dissolved de-icing agents from entering into the adjacent soil, surface water, or groundwater. The walls of the facility must be constructed of materials compatible with the de-icing agents to be placed in the facility. Run-off from the roof must be diverted away from the loading pad.
 - 3) All areas surrounding the storage pile, including but not limited to the loading pad, must be routinely inspected to determine whether any release of de-icing agents has occurred. Such

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

areas shall be cleaned as necessary. Spilled de-icing agents must be placed back under the protective covering of the indoor storage pile. The storage pile must be reshaped as often as necessary to prevent leaching.

- 4) The integrity of the facility and loading pad must be maintained.
- 5) All areas surrounding the storage facility must be inspected daily to determine whether any release of de-icing agents has occurred. Spilled de-icing agents must be placed back into the storage facility.

b) Outdoor facilities or units must comply with the following standards beginning two years after the date of first applicability:

- 1) An impermeable membrane or cover must be placed over all storage piles to protect the piles from precipitation and surface water run-on. The membrane or cover must prevent run-off and leachate from being generated by the outdoor storage piles. The piles must be formed in a conical shape, covered and stored on a paved pad capable of preventing leachate from entering adjacent soil, surface water, or groundwater.
- 2) Surface drainage must be directed to prevent flow through the base of the storage piles. De-icing agents must not be stored where drainage may enter into water supplies, farm lands or streams.
- 3) All areas surrounding the storage piles must be cleaned and must be inspected daily to determine whether any release of de-icing agents has occurred. Spilled de-icing agents must be placed back under the protective covering of the outdoor storage piles. The storage piles must be reshaped as often as necessary to prevent leaching.
- 4) The storage piles must be designed and operated to control wind dispersal of the product by means other than wetting.

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

Section 615.724 Closure

- a) At closure, all de-icing agents must be removed from the site, discharge control equipment and discharge confinement structures.
- b) All de-icing agents that are to be disposed of in the state of Illinois must be disposed of at a disposal site permitted by the Agency under the Act.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Introduction
- 2) Code Citation: 35 Ill. Adm. Code 601
- 3) Section Numbers: Adopted Action:
601.105 Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1017 and 1027
- 5) Effective Date of Rule: January 10, 1992
- 6) Does this rulemaking contain an automatic repeal date?: No
- 7) Does this Rule contain incorporations by reference? No
- 8) Date filed in Board's Principal Office: December 6, 1991
- 9) Notice of Proposal Published in Illinois Register:
July 5, 1991, 15 Ill. Reg. 9829
- 10) Has JCAR issued a Statement of Objections to these rules?
Yes
- A) Statement of Objection: December 6, 1991, 15 Ill. Reg. 17792
- B) Agency Response: January 24, 1992, 16 Ill. Reg. 1713
- C) Date Agency Response Submitted for Approval to JCAR:
December 6, 1991
- 11) Differences between proposal and final version:
Some minor format and grammatical changes were made. No changes were made to the substance of the amendment.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR?
No formal agreements were issued by JCAR. However, the Board accepted several grammatical and form corrections recommended by JCAR staff.
- 13) Will this Rule replace an emergency Rule currently in effect? No

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any other amendments pending on this part? No
- 15) Summary and Purpose of Rule:
The amendments to Part 601 are part of a proceeding entitled, Groundwater Protection: Regulations For Existing and New Activities Within Setback Zones and Regulated Recharge Areas, Board docket R89-5. The purpose of these amendments is to replace the existing definition of "groundwater" contained in Part 601 with the current definition contained in the Environmental Protection Act. Other related rulemakings are proposed new Parts 615, 616, and 617 and are contained in separate notices pertaining to Opinion and Order of December 6, 1991, R89-5, which is available from the Clerk of the Board, at: Dorothy M. Gunn, Clerk, State of Illinois Pollution Control Board, 100 W. Randolph Street, Suite 11-500, Chicago, IL 60601.
- 16) Information and questions regarding this adopted rule shall be directed to:
Michelle C. Dresdow
Illinois Pollution Control Board
P.O. Box 505
DeKalb, IL 60115
(815) 753-0947

The full text of the Adopted Amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 601
INTRODUCTION

Section
601.101 General Requirements
601.102 Applicability
601.103 Severability
601.104 Analytical Testing
601.105 Definitions

601. APPENDIX A References to Former Rules

AUTHORITY: Implementing Section 17 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. ~~1989~~1997, ch. 111 1/2, pars. 1017 and 1027).

SOURCE: Filed with Secretary of State January 1, 1978; amended at 2 Ill. Reg. 36, p. 72, effective August 29, 1978; amended at 3 Ill. Reg. 13, p. 236, effective March 30, 1979; amended and codified at 6 Ill. Reg. 11497, effective September 14, 1982; amended at 6 Ill. Reg. 14344, effective November 3, 1982; amended in R84-12 at 14 Ill. Reg. 1379, effective January 8, 1990; amended in R89-5 at January 10, 1992
16 Ill. Reg. 1585, effective _____.

NOTE: Capitalization denotes statutory language

Section 601.105 Definitions

For purposes of this Chapter:

"Act" means the Environmental Protection Act, as amended, (Ill. Rev. Stat. ~~1989~~1987, ch. 111 1/2, pars. 1001 et seq.).

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"Boil Order" means a notice to boil all drinking and culinary water for at least five minutes before use, issued by the proper authorities to the consumers of a

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

public water supply affected, whenever the water being supplied may have become bacteriologically contaminated.

"Certified Laboratory" means any laboratory approved by the Agency or the Illinois Department of Public Health for the specific parameters to be examined, as set out in rules adopted pursuant to the Illinois Administrative Procedure Act, (Ill. Rev. Stat. ~~1989~~1987, ch. 127, pars. 1001 et seq.).

"Chemical Analysis" means analysis for any inorganic or organic substance, with the exception of radiological or microbiological analyses.

"Confined Geologic Formations" are geologic water bearing formations protected against the entrance of contamination by other geologic formations.

"Disinfectant" means any oxidant, including but not limited to chlorine, chlorine dioxide, chloramines, and ozone, added to water in any part of the treatment or distribution process, which is intended to kill or inactivate pathogenic microorganisms.

"Dose Equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission on Radiological Units and Measurements (ICRU).

"Gross Alpha Particle Activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross Beta Particle Activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

~~Ground Water means all natural or artificially introduced waters found below the ground surface, including water from dug, drilled, bored or driven wells, infiltration lines, and springs. "GROUNDWATER" MEANS UNDERGROUND WATER WHICH OCCURS WITHIN THE SATURATED ZONE AND GEOLOGIC MATERIALS WHERE THE FLUID~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

PRESSURE IN THE PORE SPACE IS EQUAL TO OR GREATER THAN ATMOSPHERIC PRESSURE. (Section 3.64 of the Act)

"Halogen" means one of the chemical elements chlorine, bromine or iodine.

"Man-Made Beta Particle and Photon Emitters" means all radionuclides emitting beta particles and/or photons listed in Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure, National Bureau of Standards (NBS) Handbook 69, except the daughter products of thorium-232, uranium-235 and uranium-238.

"Maximum Residence Time Concentration (MRTC)" means the concentration of total trihalomethanes found in a water sample taken at a point of maximum residence time in the public water supply system.

"Maximum Total Trihalomethane Potential (MTP)" means the maximum concentration of total trihalomethanes produced in a given water containing a disinfectant residual after 7 days at a temperature of 25°C or above.

"Official Custodian" means any officer of an organization which is the owner or operator of a public water supply, and who has direct administrative responsibility for the supply.

"Persistent Contamination" exists when analysis for total coliform is positive in one or more samples of a routine sample set, and when three or more subsequent check samples indicate the presence of contamination.

"Picocurie (pCi)" means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

"Point of Maximum Residence Time" means that part of the active portion of the distribution system remote from the treatment plant where the water has been in the distribution system for the longest period of time.

"Recurring Contamination" exists when analysis of total coliform is positive in one or more samples of a

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

routine sample set, if this occurs four or more times in a calendar year.

"Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem (mrem)" is 1/1000 of a rem.

"Re-sell Water" means to deliver or provide potable water, obtained from a public water supply subject to these regulations, to the consumer, who is then individually or specifically billed for water service, or where any monetary assessment is levied or required and specifically used for water service. Water supply facilities owned or operated by political subdivisions, homeowners associations, and not-for-profit associations, as well as privately owned utilities regulated by the Illinois Commerce Commission, are considered to sell water whether or not a charge is specifically made for water.

"Service Connection" is the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

"Supply" means a public water supply.

"Surface Water" means all tributary streams and drainage basins, including natural lakes and artificial reservoirs, which may affect a specific water supply above the point of water supply intake.

"Surface Water Supply Source" means any surface water used as a water source for a public water supply.

"Total Trihalomethanes (TTHM)" means the sum of the concentration in milligrams per liter of the trihalomethane compounds trichloromethane (chloroform), dibromochloromethane, bromodichloromethane and tribromomethane (bromoform), rounded to two significant figures.

"Trihalomethane (THM)" means one of the family of organic compounds named as derivatives of methane, wherein three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Water Main" means any pipe for the purpose of distributing potable water which serves or is accessible to more than one property, dwelling, or rental unit, and is exterior to buildings.

(Source: Amended at 16 Ill. Reg. 1585, effective January 10, 1992)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

1) Heading of the Part: New Activities In A Setback Zone Or Regulated Recharge Area

2) Code Citation: 35 Ill. Adm. Code 616

3) Section Numbers: Adopted Action:

616.101	New Section
616.102	New Section
616.104	New Section
616.105	New Section
616.201	New Section
616.202	New Section
616.203	New Section
616.204	New Section
616.205	New Section
616.206	New Section
616.207	New Section
616.208	New Section
616.209	New Section
616.210	New Section
616.211	New Section
616.301	New Section
616.302	New Section
616.303	New Section
616.304	New Section
616.305	New Section
616.306	New Section
616.307	New Section
616.401	New Section
616.402	New Section
616.421	New Section
616.422	New Section
616.423	New Section
616.424	New Section
616.425	New Section
616.441	New Section
616.442	New Section
616.443	New Section
616.444	New Section
616.445	New Section
616.446	New Section
616.447	New Section
616.461	New Section
616.462	New Section
616.463	New Section
616.464	New Section

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

616.501 New Section
616.502 New Section
616.601 New Section
616.602 New Section
616.603 New Section
616.604 New Section
616.605 New Section
616.621 New Section
616.622 New Section
616.623 New Section
616.624 New Section
616.625 New Section
616.701 New Section
616.702 New Section
616.703 New Section
616.704 New Section
616.705 New Section
616.721 New Section
616.722 New Section
616.723 New Section
616.724 New Section
616.725 New Section

- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1005, 1014.4, 1021, 1022, and 1027.
- 5) Effective Date of Rule: January 10, 1992
- 6) Does this rulemaking contain an automatic repeal date?: No
- 7) Does this Rule contain incorporations by reference? No
- 8) Date filed in Board's Principal Office: December 6, 1991
- 9) Notice of Proposal Published in Illinois Register:
July 5, 1991, 15 Ill. Reg. 9836
- 10) Has JCAR issued a Statement of Objections to these rules?
Yes
- A) Statement of Objection: December 6, 1991, 15 Ill. Reg. 17793
- B) Agency Response: January 24, 1992, 16 Ill. Reg. 1723

ILLINOIS REGISTER

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

- C) Date Agency Response Submitted for Approval to JCAR: December 6, 1991
- 11) Differences between proposal and final version:
There are a number of nonsubstantive typographical and grammatical corrections which the Board made during first notice and at the recommendation of JCAR staff.
The Board made other changes during first notice as follows:
The term on-site was added before the terms "landfills", "land treatment units", "surface impoundments", and "waste piles" in the titles to subparts D, E, F, and G, respectively.
For 616.204, the word "adjacent" was added between the words "overlying" and "formations" in subsection (c)(3).
Subsection (b) was added to Section 616.304.
The title of Section 616.444 was changed from "Design and Operating Requirements" to "Design Requirements"
For section 616.461, a new subsection (b) was added and the text of former subsection (b) was placed in a subsection (c).
For section 616.462, the text of subsection (b) was moved to (c) and new text was placed in (b), with the addition of a reference to subtitles F and G.
Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR?
No formal agreements were issued by JCAR. However, the Board accepted several non-substantive grammatical and form corrections recommended by JCAR staff.
- 12) Will this Rule replace an emergency Rule currently in effect? No
- 13) Are there any other amendments pending on this Part? No
- 14) Summary and Purpose of Rule:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

Pursuant to legislative mandate contained in the Groundwater Protection Act and the Environmental Protection Act, the Board is adopting these rules for new activities within setback zones and regulated recharge areas as defined in the rules. The activities regulated include landfilling, land treating, surface impounding, and piling of wastes; or the use of underground storage tanks or pesticide, fertilizer, road oil or de-icing agent storage and handling units, as specified in the rules.

- 16) Information and questions regarding this adopted rule shall be directed to:

Michelle C. Dresdow
Illinois Pollution Control Board
P.O. Box 505
DeKalb, IL 60115
(815) 753-0947

The full text of the Adopted Rule begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 616

NEW ACTIVITIES IN A SETBACK ZONE OR REGULATED RECHARGE AREA

SUBPART A: GENERAL

Section
616.101 Purpose
616.102 Definitions
616.104 Exceptions to Prohibitions
616.105 General Exceptions

SUBPART B: GROUNDWATER MONITORING REQUIREMENTS

Section
616.201 Applicability
616.202 Compliance Period
616.203 Compliance With Groundwater Standards
616.204 Groundwater Monitoring System
616.205 Groundwater Monitoring Program
616.206 Reporting
616.207 Determining Background Values and Maximum Allowable Results ("MARs")
616.208 Continued Sampling
616.209 Preventive Notification and Preventive Response
616.210 Corrective Action Program
616.211 Alternative Corrective Action Demonstration

SUBPART C: GENERAL CLOSURE AND POST-CLOSURE REQUIREMENTS

Section
616.301 Applicability
616.302 Closure Performance Standard
616.303 Certification of Closure
616.304 Survey Plat
616.305 Post-Closure Notice for Waste Disposal Units
616.306 Certification of Completion of Post-Closure Care
616.307 Post-Closure Care Period

SUBPART D: ON-SITE LANDFILLS

Section
616.401 Applicability
616.402 Prohibitions

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

SUBPART E: ON-SITE LAND TREATMENT UNITS

Section
616.421
616.422
616.423
616.424
616.425

Applicability
Prohibitions
Groundwater Monitoring
Design and Operating Requirements
Closure and Post-Closure Care

SUBPART F: ON-SITE SURFACE IMPOUNDMENTS

Section
616.441
616.442
616.443
616.444
616.445
616.446
616.447

Applicability
Prohibitions
Groundwater Monitoring
Design Requirements
Inspection Requirements
Operating Requirements
Closure and Post-Closure Care

SUBPART G: ON-SITE WASTE PILES

Section
616.461
616.462
616.463
616.464

Applicability
Prohibitions
Design and Operating Requirements
Closure

SUBPART H: UNDERGROUND STORAGE TANKS

Section
616.501
616.502

Applicability
Design and Operating Requirements

SUBPART I: PESTICIDE STORAGE AND HANDLING UNITS

Section
616.601
616.602
616.603
616.604
616.605

Applicability
Prohibitions
Groundwater Monitoring
Design and Operating Requirements
Closure and Post-Closure Care

SUBPART J: FERTILIZER STORAGE AND HANDLING UNITS

Section

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

616.621 Applicability
616.622 Prohibitions
616.623 Groundwater Monitoring
616.624 Design and Operating Requirements
616.625 Closure and Post-Closure Care

SUBPART K: ROAD OIL STORAGE AND HANDLING UNITS

Section
616.701 Applicability
616.702 Prohibitions
616.703 Groundwater Monitoring
616.704 Design and Operating Requirements for Above-Ground
Storage Tanks
616.705 Closure

SUBPART L: DE-ICING AGENT STORAGE AND HANDLING UNITS

Section
616.721 Applicability
616.722 Prohibitions
616.723 Groundwater Monitoring
616.724 Design and Operating Requirements for Indoor Storage
Facilities
616.725 Closure

AUTHORITY: Implementing and authorized Sections 5, 14.4, 21, 22, and 27 of the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1005, 1014.4, 1021, 1022, and 1027).

SOURCE: Adopted at R89-5 16 Ill. Reg. 1592, effective January 10, 1992.

NOTE: Capitalization denotes statutory language.

SUBPART A: GENERAL

Section 616.101 Purpose

This Part prescribes requirements and standards for the protection of groundwater for certain types of new facilities or units located wholly or partially within a setback zone regulated by the Act or within a regulated recharge area as delineated pursuant to Section 17.4 of the Illinois Environmental Protection Act (Act) (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1001 et seq.).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

Section 616.102

Definitions

Except as stated in this Section, and unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part shall be the same as those used in 35 Ill. Adm. Code 615.102, the Act, or the Illinois Groundwater Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 7451 et seq.).

"NEW POTENTIAL PRIMARY SOURCE" MEANS:

A POTENTIAL PRIMARY SOURCE WHICH IS NOT IN EXISTENCE OR FOR WHICH CONSTRUCTION HAS NOT COMMENCED AT ITS LOCATION AS OF JANUARY 1, 1988; OR

A POTENTIAL PRIMARY SOURCE WHICH EXPANDS LATEROALLY BEYOND THE CURRENTLY PERMITTED BOUNDARY OR, IF THE PRIMARY SOURCE IS NOT PERMITTED, THE BOUNDARY IN EXISTENCE AS OF JANUARY 1, 1988; OR

A POTENTIAL PRIMARY SOURCE WHICH IS PART OF A FACILITY THAT UNDERGOES MAJOR RECONSTRUCTION. SUCH RECONSTRUCTION SHALL BE DEEMED TO HAVE TAKEN PLACE WHERE THE FIXED CAPITAL COST OF THE NEW COMPONENTS CONSTRUCTED WITHIN A 2-YEAR PERIOD EXCEED 50% OF THE FIXED CAPITAL COST OF A COMPARABLE ENTIRELY NEW FACILITY.

(Section 3.59 of the Act)

"NEW POTENTIAL ROUTE" MEANS:

A POTENTIAL ROUTE WHICH IS NOT IN EXISTENCE OR FOR WHICH CONSTRUCTION HAS NOT COMMENCED AT ITS LOCATION AS OF JANUARY 1, 1988, OR

A POTENTIAL ROUTE WHICH EXPANDS LATEROALLY BEYOND THE CURRENTLY PERMITTED BOUNDARY OR, IF THE POTENTIAL ROUTE IS NOT PERMITTED, THE BOUNDARY IN EXISTENCE AS OF JANUARY 1, 1988.

(Section 3.58 of the Act)

"NEW POTENTIAL SECONDARY SOURCE" MEANS:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

A POTENTIAL SECONDARY SOURCE WHICH IS NOT IN EXISTENCE OR FOR WHICH CONSTRUCTION HAS NOT COMMENCED AT ITS LOCATION AS OF JULY 1, 1988; OR

A POTENTIAL SECONDARY SOURCE WHICH EXPANDS LATEROALLY BEYOND THE CURRENTLY PERMITTED BOUNDARY OR, IF THE SECONDARY SOURCE IS NOT PERMITTED, THE BOUNDARY IN EXISTENCE AS OF JULY 1, 1988, OTHER THAN AN EXPANSION FOR HANDLING OF LIVESTOCK WASTE OR FOR TREATING DOMESTIC WASTEWATERS; OR

A POTENTIAL SECONDARY SOURCE WHICH IS PART OF A FACILITY THAT UNDERGOES MAJOR RECONSTRUCTION. SUCH RECONSTRUCTION SHALL BE DEEMED TO HAVE TAKEN PLACE WHERE THE FIXED CAPITAL COST OF THE NEW COMPONENTS CONSTRUCTED WITHIN A 2-YEAR PERIOD EXCEED 50% OF THE FIXED CAPITAL COST OF A COMPARABLE ENTIRELY NEW FACILITY.

(Section 3.60 of the Act)

"POTENTIAL PRIMARY SOURCE" MEANS ANY UNIT AT A FACILITY OR SITE NOT CURRENTLY SUBJECT TO A REMOVAL OR REMEDIAL ACTION WHICH:

IS UTILIZED FOR THE TREATMENT, STORAGE, OR DISPOSAL OF ANY HAZARDOUS OR SPECIAL WASTE NOT GENERATED AT THE SITE; OR

IS UTILIZED FOR THE DISPOSAL OF MUNICIPAL WASTE NOT GENERATED AT THE SITE, OTHER THAN LANDSCAPE WASTE AND CONSTRUCTION AND DEMOLITION DEBRIS; OR

IS UTILIZED FOR THE LANDFILLING, LAND TREATING, SURFACE IMPOUNDING OR PILING OF ANY HAZARDOUS OR SPECIAL WASTE THAT IS GENERATED ON THE SITE OR AT OTHER SITES OWNED, CONTROLLED OR OPERATED BY THE SAME PERSON; OR

STORES OR ACCUMULATES AT ANY TIME MORE THAN 75,000 POUNDS ABOVE GROUND, OR MORE THAN 7,500 POUNDS BELOW GROUND, OF ANY HAZARDOUS SUBSTANCES.

(Section 3.59 of the Act)

"POTENTIAL ROUTE" MEANS ABANDONED AND IMPROPERLY PLUGGED WELLS OF ALL KINDS, DRAINAGE WELLS, ALL

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

INJECTION WELLS, INCLUDING CLOSED LOOP HEAT PUMP WELLS, AND ANY EXCAVATION FOR THE DISCOVERY, DEVELOPMENT OR PRODUCTION OF STONE, SAND OR GRAVEL. (Section 3.58 of the Act)

"POTENTIAL SECONDARY SOURCE" MEANS ANY UNIT AT A FACILITY OR A SITE NOT CURRENTLY SUBJECT TO A REMOVAL OR REMEDIAL ACTION, OTHER THAN A POTENTIAL PRIMARY SOURCE, WHICH:

IS UTILIZED FOR THE LANDFILLING, LAND TREATING, OR SURFACE IMPOUNDING OF WASTE THAT IS GENERATED ON THE SITE OR AT OTHER SITES OWNED, CONTROLLED OR OPERATED BY THE SAME PERSON, OTHER THAN LIVESTOCK AND LANDSCAPE WASTE, AND CONSTRUCTION AND DEMOLITION DEBRIS; OR

STORES OR ACCUMULATES AT ANY TIME MORE THAN 25,000 BUT NOT MORE THAN 75,000 POUNDS ABOVE GROUND, OR MORE THAN 2,500 BUT NOT MORE THAN 7,500 POUNDS BELOW GROUND, OF ANY HAZARDOUS SUBSTANCES; OR

STORES OR ACCUMULATES AT ANY TIME MORE THAN 25,000 GALLONS ABOVE GROUND, OR MORE THAN 500 GALLONS BELOW GROUND, OF PETROLEUM, INCLUDING CRUDE OIL OR ANY FRACTION THEREOF WHICH IS NOT OTHERWISE SPECIFICALLY LISTED OR DESIGNATED AS A HAZARDOUS SUBSTANCE; OR

STORES OR ACCUMULATES PESTICIDES, FERTILIZERS, OR ROAD OILS FOR PURPOSES OF COMMERCIAL APPLICATION OR FOR DISTRIBUTION TO RETAIL SALES OUTLETS; OR

STORES OR ACCUMULATES AT ANY TIME MORE THAN 50,000 POUNDS OF ANY DE-ICING AGENT; OR

IS UTILIZED FOR HANDLING LIVESTOCK WASTE OR FOR TREATING DOMESTIC WASTEWATERS OTHER THAN PRIVATE SEWAGE DISPOSAL SYSTEMS AS DEFINED IN THE PRIVATE SEWAGE DISPOSAL LICENSING ACT Ill. Rev. Stat. 1989, ch. 111 1/2, par. 116.301 et seq.

(Section 3.60 of the Act)

Section 616.104

Exceptions to Prohibitions

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

a) THE OWNER OF A NEW POTENTIAL PRIMARY SOURCE OR A POTENTIAL SECONDARY SOURCE MAY SECURE A WAIVER FROM THE prohibitions specified in Sections 616.402(a), 616.422(a), 616.442, 616.462(a), 616.602, 616.622, 616.702 or 616.722(a) against construction or operation within the setback zone for a POTABLE WATER SUPPLY WELL OTHER THAN A COMMUNITY WATER SUPPLY. A WRITTEN REQUEST FOR A WAIVER SHALL BE MADE TO THE OWNER OF THE WATER WELL AND THE AGENCY. SUCH REQUEST SHALL IDENTIFY THE NEW OR PROPOSED POTENTIAL SOURCE, SHALL GENERALLY DESCRIBE THE POSSIBLE EFFECT OF SUCH POTENTIAL SOURCE UPON THE WATER WELL AND ANY APPLICABLE TECHNOLOGY-BASED CONTROL WHICH WILL BE UTILIZED TO MINIMIZE THE POTENTIAL FOR CONTAMINATION, AND SHALL STATE WHETHER, AND UNDER WHAT CONDITIONS, THE REQUESTOR WILL PROVIDE AN ALTERNATIVE POTABLE WATER SUPPLY. WAIVER MAY BE GRANTED BY THE OWNER OF THE WATER WELL NO LESS THAN 90 DAYS AFTER RECEIPT UNLESS PRIOR TO SUCH TIME THE AGENCY NOTIFIES THE WELL OWNER THAT IT DOES NOT CONCUR WITH THE REQUEST. (Section 14.2(b) of the Act)

b) THE AGENCY SHALL NOT CONCUR WITH ANY SUCH REQUEST WHICH FAILS TO ACCURATELY DESCRIBE REASONABLY FORESEEABLE EFFECTS OF THE POTENTIAL SOURCE OR POTENTIAL ROUTE UPON THE WATER WELL OR ANY APPLICABLE TECHNOLOGY-BASED CONTROLS. SUCH NOTIFICATION BY THE AGENCY SHALL BE IN WRITING, AND SHALL INCLUDE A STATEMENT OF REASONS FOR THE NONCONCURRENCE. WAIVER OF THE MINIMUM SETBACK ZONE SHALL EXTINGUISH THE WATER WELL OWNER'S RIGHTS UNDER SECTION 6b OF THE ILLINOIS WATER WELL CONSTRUCTION CODE BUT SHALL NOT PRECLUDE POLLUTION. IF THE OWNER OF THE WATER WELL HAS NOT GRANTED A WAIVER WITHIN 120 DAYS AFTER RECEIPT OF THE REQUEST OR THE AGENCY HAS NOTIFIED THE OWNER THAT IT DOES NOT CONCUR WITH THE REQUEST, THE OWNER OF A POTENTIAL SOURCE OR POTENTIAL ROUTE MAY FILE A PETITION FOR AN EXCEPTION WITH THE BOARD AND THE AGENCY PURSUANT TO subsection (b) OF THIS SECTION. (Section 14.2(b) of the Act)

c) NO WAIVER UNDER THIS SECTION IS REQUIRED WHERE THE POTABLE WATER SUPPLY WELL IS PART OF A PRIVATE WATER SYSTEM AS DEFINED IN THE ILLINOIS GROUNDWATER PROTECTION ACT, AND THE OWNER OF SUCH WELL WILL ALSO BE THE OWNER OF A NEW POTENTIAL SECONDARY SOURCE OR A POTENTIAL ROUTE. IN SUCH INSTANCES, A PROHIBITION OF 75 FEET SHALL APPLY AND THE OWNER SHALL NOTIFY THE AGENCY OF THE INTENDED ACTION SO THAT THE AGENCY MAY

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

PROVIDE INFORMATION REGARDING THE POTENTIAL HAZARDS ASSOCIATED WITH LOCATION OF A POTENTIAL SECONDARY SOURCE OR POTENTIAL ROUTE IN CLOSE PROXIMITY TO A POTABLE WATER SUPPLY WELL. (Section 14.2(b) of the Act)

- d) THE BOARD MAY GRANT AN EXCEPTION FROM THE SETBACK REQUIREMENTS OF THIS SECTION AND SECTION 14.3 TO THE OWNER OF A NEW POTENTIAL PRIMARY SOURCE OTHER THAN LANDFILLING OR LAND TREATING, OR A NEW POTENTIAL SECONDARY SOURCE. THE OWNER SEEKING AN EXCEPTION WITH RESPECT TO A COMMUNITY WATER SUPPLY WELL SHALL FILE A PETITION WITH THE BOARD AND THE AGENCY. THE OWNER SEEKING AN EXCEPTION WITH RESPECT TO A POTABLE WATER SUPPLY WELL SHALL FILE A PETITION WITH THE BOARD AND THE AGENCY, AND SET FORTH THEREIN THE CIRCUMSTANCES UNDER WHICH A WAIVER HAS BEEN SOUGHT BUT NOT OBTAINED PURSUANT TO subsection (a) OF THIS SECTION. A PETITION SHALL BE ACCOMPANIED BY PROOF THAT THE OWNER OF EACH POTABLE WATER SUPPLY WELL FOR WHICH SETBACK REQUIREMENTS WOULD BE AFFECTED BY THE REQUESTED EXCEPTION HAS BEEN NOTIFIED AND BEEN PROVIDED WITH A COPY OF THE PETITION. A PETITION SHALL SET FORTH SUCH FACTS AS MAY BE REQUIRED TO SUPPORT AN EXCEPTION, INCLUDING A GENERAL DESCRIPTION OF THE POTENTIAL IMPACTS OF SUCH POTENTIAL SOURCE OR POTENTIAL ROUTE UPON GROUNDWATERS AND THE AFFECTED WATER WELL, AND AN EXPLANATION OF THE APPLICABLE TECHNOLOGY-BASED CONTROLS WHICH WILL BE UTILIZED TO MINIMIZE THE POTENTIAL FOR CONTAMINATION OF THE POTABLE WATER SUPPLY WELL. (Section 14.2(c) of the Act)

- e) THE BOARD SHALL GRANT AN EXCEPTION, WHENEVER IT IS FOUND UPON PRESENTATION OF ADEQUATE PROOF, THAT COMPLIANCE WITH THE SETBACK REQUIREMENTS OF THIS SECTION WOULD POSE AN ARBITRARY AND UNREASONABLE HARDSHIP UPON THE PETITIONER, THAT THE PETITIONER WILL UTILIZE THE BEST AVAILABLE TECHNOLOGY CONTROLS ECONOMICALLY ACHIEVABLE TO MINIMIZE THE LIKELIHOOD OF CONTAMINATION OF THE POTABLE WATER SUPPLY WELL, THAT THE MAXIMUM FEASIBLE ALTERNATIVE SETBACK WILL BE UTILIZED, AND THAT THE LOCATION OF SUCH POTENTIAL SOURCE OR POTENTIAL ROUTE WILL NOT CONSTITUTE A SIGNIFICANT HAZARD TO THE POTABLE WATER SUPPLY WELL. (Section 14.2(c) of the Act)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- f) A DECISION MADE BY THE BOARD PURSUANT TO THIS SUBSECTION SHALL CONSTITUTE A FINAL DETERMINATION. (Section 14.2(c) of the Act)

- g) THE GRANTING OF AN EXCEPTION BY THE BOARD SHALL NOT EXTINGUISH THE WATER WELL OWNER'S RIGHTS UNDER SECTION 6b OF THE ILLINOIS WATER WELL CONSTRUCTION CODE IN INSTANCES WHERE THE OWNER HAS ELECTED NOT TO PROVIDE A WAIVER PURSUANT TO subsection (a) OF THIS SECTION. (Section 14.2(a) of the Act)

Section 616.105 General Exceptions

- a) This Part does not apply to any facility or unit, or to the owner or operator of any facility or unit, for which:

- 1) The owner or operator obtains certification of minimal hazard pursuant to Section 14.5 of the Act; or
- 2) Alternate requirements are imposed in an adjusted standard proceeding or in a site-specific rulemaking, pursuant to Title VII of the Act; or
- 3) Alternate requirements are imposed in a regulated recharge area proceeding pursuant to Section 17.4 of the Act.

- b) Nothing in this Section shall limit the authority of the Board to impose requirements on any facility or unit within any portion of any setback zone or regulated recharge area in any adjusted standard proceeding, site-specific rulemaking or a regulatory proceeding establishing the regulated recharge area.

SUBPART B: GROUNDWATER MONITORING REQUIREMENTS

Section 616.201 Applicability

This Subpart applies to:

- a) Land treatment units subject to Subpart E;
- b) Surface impoundments subject to Subpart F;

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

- c) Pesticide storage and handling units subject to Subpart I;
- d) Fertilizer storage and handling units subject to Subpart J;
- e) Road oil storage and handling units subject to Subpart K; and
- f) De-icing agent storage and handling units subject to Subpart L.

- b) Compliance shall be measured at the compliance point, or compliance points if more than one such point exists.

Section 616.204 Groundwater Monitoring System

- a) The groundwater monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield groundwater samples that:
 - 1) Represent the quality of background water that has not been affected by contamination from the facility or unit; and
 - 2) Represent the quality of groundwater at the compliance point or points.
- b) If a facility contains more than one unit, separate groundwater monitoring systems are not required for each unit, provided that provisions for sampling the groundwater will enable detection and measurement of contaminants that have entered the groundwater from all units.

Section 616.202 Compliance Period

The compliance period is the active life of the unit, including closure and post-closure care periods.

- a) The active life begins when the unit first begins operation or one year after the date of first applicability, whichever occurs later, and ends when the post-closure care period ends.
- b) The post-closure care period for units other than pesticide storage and handling units subject to Subpart I and fertilizer storage and handling units subject to Subpart J is five years after closure, except as provided at Section 616.211(e).
- c) The post-closure care period for pesticide storage and handling units subject to Subpart I and for fertilizer storage and handling units subject to Subpart J is three years after closure, except as provided at Section 616.211(e).
- d) Subsections (a), (b), and (c) notwithstanding, no post-closure care period is required if all waste, waste residues, contaminated containment system components and contaminated subsoils are removed or decontaminated at closure, and no ongoing corrective action is required pursuant to Section 616.211.

Section 616.203 Compliance With Groundwater Standards

The owner or operator shall comply with the groundwater standards.

- a) The term of compliance is the compliance period.

- c) Monitoring wells must meet the following requirements:

- 1) Construction must be done in a manner that will enable the collection of groundwater samples;
- 2) Casings and screens must be made from durable material that is resistant to expected chemical or physical degradation and that does not interfere with the quality of groundwater samples being collected; and
- 3) The annular space opposite the screened section of the well (i.e., the space between the bore hole and well screen) must be filled with gravel or sand if necessary to collect groundwater samples. The annular space above and below the well screen must be sealed to prevent migration of water from overlying adjacent formations and the surface to the sampled depth.

Section 616.205 Groundwater Monitoring Program

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

The owner or operator shall develop a groundwater monitoring program that consists of:

- a) Consistent sampling and analysis procedures that are designed to ensure monitoring results that provide a reliable indication of groundwater quality below the unit. At a minimum the program must include procedures and techniques for:
 - 1) Sample collection;
 - 2) Sample preservation and shipment;
 - 3) Analytical procedures; and
 - 4) Chain of custody control.

- b) Sampling and analytical methods that are appropriate for groundwater monitoring and that allow for detection and quantification of contaminants specified in this Subpart, and that are consistent with the sampling and analytical methods specified in 35 Ill. Adm. Code 620.

- c) A determination of the groundwater head elevation each time groundwater is sampled.

- d) A determination at least annually of the groundwater flow rate and direction.

- e) If the owner or operator determines that the groundwater monitoring program no longer satisfies the requirements of this Section, the owner or operator shall, within 90 days, make appropriate changes to the program. Conditions under which a groundwater monitoring program no longer satisfies the requirements of this Section include, but are not limited to:

- 1) A Maximum Allowable Result (MAR) is exceeded in any monitoring well that is being used as a background monitoring well or that the owner or operator has previously determined to be hydraulically upgradient from the facility; or
- 2) A redetermination of groundwater flow rate and direction conducted pursuant to subsection (d) shows that the existing monitoring system is not

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

capable of assessing groundwater quality at the compliance points or points.

Section 616.206 Reporting

The owner or operator shall submit results of all monitoring required pursuant to this Subpart to the Agency within 60 days after completion of sampling.

Section 616.207 Determining Background Values and Maximum Allowable Results ("MARS")

- a) The owner or operator shall, beginning no later than the beginning of operation of the unit and continuing for a period of at least one year, sample each monitoring well at least every two months and analyze each such sample according to the following program:

- 1) For a unit subject to Subpart E (land treatment units), Subpart F (surface impoundments), Subpart K (road oil storage and handling units), or Subpart L (de-icing agent storage and handling units), analysis shall be for pH, specific conductance, total organic carbon, total organic halogen, and any other parameter that meets the following criteria:

- A) Material containing such parameter is stored, treated or disposed of at the unit; and

- B) There is a groundwater standard for such parameter.

- 2) For a unit subject to Subpart I for the storage and handling of pesticides, analysis shall be for each pesticide stored or handled at the unit.

- 3) For a unit subject to Subpart J for the storage and handling of fertilizer analysis shall be for pH, specific conductance, total organic carbon, nitrates as nitrogen, ammonia nitrogen and for any other parameter that meets the following criteria:

- A) Material containing such parameter is stored or handled at the unit; and

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

- B) There is a groundwater standard for such parameter.
- b) The results obtained under subsection (a) shall be used to calculate the background mean, background standard deviation and the Maximum Allowable Result (hereinafter referred to as "MAR") for each parameter using the following procedures:
- 1) Results from all samples collected during the year must be used in the calculations unless the owner or operator demonstrates to the Agency that one or more of the results was due to error in sampling, analysis or evaluation.
 - 2) All calculations must be based on a minimum of at least six sample measurements per parameter per well.
 - 3) If any measured value is equal to or greater than its PQL, or if any measured value is greater than its corresponding groundwater standard, the actual measured value must be used calculating the mean and standard deviation.
 - 4) If any measured value is less than its PQL and less than its corresponding groundwater standard, the PQL rather than the measured value is to be used in calculating the mean and standard deviation.
 - 5) Except for pH, the MAR is the quantity equal to the measured mean value of the contaminant plus the product of the contaminant's standard deviation times the following constant:

Sample Size	Constant
6	2.10
7	2.03
8	1.97
9	1.93
10	1.90
11	1.88
12	1.85
13	1.84
14	1.82

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

- 6) For pH, the upper limit for the MAR is the quantity equal to the measured background mean pH plus the product of the calculated background standard deviation of the samples times the constant tabulated in subsection (a)(5).
- 7) For pH, the lower limit of the MAR is the quantity equal to the measured background mean pH minus the product of the calculated background standard deviation of the samples times the constant tabulated in subsection (a)(5).

Section 616.208 Continued Sampling

Upon completion of the background sampling required pursuant to Section 616.207, the owner or operator shall sample each monitoring well for the duration of the compliance period and analyze each sample, except as provided in Section 616.209, according to the following program:

- a) For a unit subject to Subpart E (land treatment units) or Subpart F (surface impoundments), sampling shall be at least quarterly and analysis shall be for pH, specific conductance, total organic carbon, total organic halogen, and any other parameter that meets the following criteria:
 - 1) Material containing such parameter is stored, treated or disposed of at the unit; and
 - 2) The Board has adopted a groundwater standard for such parameter.
- b) For a unit subject to Subpart I for the storage and handling of pesticides, sampling shall be at least quarterly, except as provided in subsection (d), and analysis shall be for five specific pesticides or five groups of chemically-similar pesticides stored or handled at the unit that are the most likely to enter into the groundwater from the unit and that are the most toxic. The owner or operator shall choose the five specific pesticides or five groups based upon the following criteria:
 - 1) The volume of the pesticides stored or handled at the unit;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- 2) The leachability characteristics of the pesticides stored or handled at the unit;
 - 3) The toxicity characteristics of the pesticides stored or handled at the unit;
 - 4) The history of spillage of the pesticides stored or handled at the unit; and
 - 5) Any groundwater standards for the pesticides stored or handled at the unit.
- c) For a unit subject to Subpart J for the storage and handling of fertilizer, sampling shall be at least quarterly, except as provided in subsection d), and analysis shall be for pH, total organic carbon, nitrates as nitrogen, ammonia nitrogen, and specific conductance.
- d) Subsections (b) and (c) notwithstanding, for a unit subject to Subpart I for the storage and handling of pesticides or for a unit subject to Subpart J for the storage and handling of fertilizers, sampling shall be at least semi-annually provided that all of the following conditions are met:
- 1) The unit is in compliance with the containment requirements of 8 Ill. Adm. Code 255;
 - 2) There have been no detections within the preceding two years in any of the monitoring wells of any contaminant stored or handled at the facility or of any contaminant attributable to operation of the unit; and
 - e) For a unit subject to Subpart K for the storage and handling of road oils or subject to Subpart L for the storage and handling of de-icing agents, sampling shall be annually and analysis shall be for pH, specific conductance, total organic carbon and total organic halogen.

Section 616.209

Preventive Notification and Preventive Response

- a) Preventive notification is required for each well in which:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- 1) A MAR is found to be exceeded (except for pH), or
- 2) There is a detection of any contaminant:
 - A) Required to be monitored under Section 616.207(a);
 - B) Listed under 35 Ill. Adm. Code 620.310(a)(3)(A) (except due to natural causes and except for pH);
 - C) Denoted as carcinogen under 35 Ill. Adm. Code 620.410(b); or
 - D) Subject to a standard under 35 Ill. Adm. Code 620.430 (except due to natural causes).

- b) Whenever preventive notification is required under subsection (a), the owner or operator of the unit shall confirm the detection by resampling the monitoring well or wells. This resampling shall be analyzed for each parameter found to be present in the first sample and be performed within 30 days after the date on which the first sample analyses are received, but no later than 90 days after the results of the first sample are received.
- c) If preventive notification is provided under subsection (b) by the owner or operator and the applicable standard has not been exceeded, the Agency shall determine whether the levels for each parameter as set forth in 35 Ill. Adm. Code 620.310(a)(3)(A) are exceeded. If an exceedance is determined, the Agency shall notify the owner or operator in writing regarding such finding.
- d) Upon receipt of a finding that an exceedance has occurred, the owner or operator shall submit to the Agency within 60 days a report that, at a minimum, shall include the degree and extent of contamination and the measures that are being taken to minimize or eliminate this contamination, in accordance with a prescribed schedule. The owner or operator may also provide a demonstration that:
 - 1) The contamination is the result of contaminants remaining in groundwater from a prior release for

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

which appropriate action was taken in accordance with the laws and regulations in existence at the time of the release;

- 2) The source of contamination is not due to the on-site release of contaminants; or
- 3) The detection resulted from error in sampling analysis or evaluation.

e) Based upon the report in subsection (d) as well as any other relevant information available to the Agency, the Agency shall provide a written response to the owner or operator that specifies either:

- 1) Concurrence with the preventive response being undertaken; or
- 2) Non-concurrence with the preventive response being undertaken and a description of the inadequacies of such action.

f) An owner or operator who receives a written response of concurrence pursuant to subsection (e) shall provide periodic program reports to the Agency regarding the implementation of the preventive response.

g) An owner or operator who receives a written response of non-concurrence pursuant to subsection (e) shall have 30 days to correct the inadequacies and to resubmit the report to the Agency or to request a conference with the Agency. Upon receipt of a written request for such a conference, the Agency shall schedule and hold the conference within 30 days. Following a conference, the Agency shall provide the owner or operator with a final determination regarding the adequacy of the preventive response.

h) An owner or operator shall be responsible for implementing adequate preventive response as determined pursuant to this Section.

i) After completion of preventive response, the concentration of a contamination listed in 35 Ill. Adm. Code 620.310(a)(3)(A) in groundwater may exceed 50 percent of the applicable numerical standard in 35 Ill.

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

Adm. Code 620.Subpart D only if the following conditions are met:

- 1) The exceedence has been minimized to the extent practicable;
 - 2) Beneficial use, as appropriate for the class of groundwater, has been assured; and
 - 3) Any threat to public health or the environment has been minimized.
- j) Nothing in this Section shall in any way limit the authority of the State or the United States to require or perform any corrective action process.

Section 616.210 Corrective Action Program

Whenever any applicable groundwater standard under 35 Ill. Adm. Code 620.Subpart D is exceeded, an owner or operator shall be required to undertake the following corrective action:

a) Notify the Agency of the need to undertake a corrective action program when submitting the groundwater monitoring results required pursuant to Section 616.206. The notification must indicate in which wells and for which parameters a groundwater standard was exceeded.

b) Continue to sample and analyze according to the provisions of Section 616.208(a), except that:

1) For all units subject to Subpart I for the storage and handling of pesticides, the frequency of all such sampling shall be quarterly until no measured values above the groundwater standard have been recorded for any parameter for two consecutive quarters.

2) For a unit subject to Subpart J for the storage and handling of fertilizers, sampling shall be quarterly for the parameters set forth in Section 616.207(a)(3) stored or handled at the unit until no measured values above the groundwater standard have been recorded for two consecutive quarters.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

c) If sample values above any groundwater standard are confirmed pursuant to Section 616.209(b), the owner or operator shall:

- 1) Submit to the Agency an engineering feasibility plan for a corrective action program designed to achieve the requirements of subsection (e) through (j).
- A) Such feasibility plan shall be submitted to the Agency within 180 days after the date of the sample in which a groundwater standard was initially exceeded.
- B) This requirement is waived if no groundwater standard is exceeded in any sample taken pursuant to subsection (b) for two consecutive quarters.

d) Except as provided in subsection (c)(1)(B), the Agency shall provide a written response to the owner or operator based upon the engineering feasibility plan and any other relevant information that specifies either:

- 1) Concurrence with the feasibility plan for corrective action; or
- 2) Non-concurrence with the feasibility plan for corrective action and a description of the inadequacies of such plan.

e) An owner or operator who receives a written response of concurrence pursuant to subsection (d) shall provide periodic progress reports to the Agency regarding the implementing of the preventive response.

f) An owner or operator who receives a written response of non-concurrence pursuant to subsection (d) shall have 30 days to correct the inadequacies and to resubmit the report to the Agency or to request a conference with the Agency. Upon receipt of a written request for such a conference, the Agency shall schedule and hold the conference within 30 days. Following a conference, the Agency shall provide the owner or operator with a final determination regarding the adequacy of the corrective action.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

g) An owner or operator shall be responsible for implementing adequate preventive response as determined pursuant to this Section.

- h) Except as provided in subsection (c)(1)(B), the owner or operator shall:
 - 1) Begin the corrective action program specified in the engineering feasibility plan no later than the date of receipt of concurrence from the Agency.
 - 2) Establish and implement a groundwater monitoring program to demonstrate the effectiveness of the corrective action program.
 - 3) Take corrective action that results in compliance with the groundwater standards:

A) At all compliance points; and

B) Beyond the unit boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the Agency that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. The owner or operator is not relieved of responsibility to clean up a release that has migrated beyond the unit boundary where off-site access is denied.

4) Continue corrective action measures to the extent necessary to ensure that no groundwater standard is exceeded at the compliance point or points.

5) The owner or operator may terminate corrective action measures taken beyond the compliance period as identified at Section 616.202 if the owner or operator can demonstrate, based on data from the post-closure groundwater monitoring program under subsection (h)(2), that no groundwater standard has been exceeded for a period of three consecutive years.

6) Report in writing to the Agency on the effectiveness of the corrective action program.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

The owner or operator shall submit these reports semi-annually.

- 7) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this Section, the owner or operator shall, within 90 days, make any appropriate changes to the program.

- i) Subsections (b), (c) and (f) do not apply if the owner or operator makes an alternative corrective action demonstration pursuant to Section 616.211.

Section 616.211 Alternative Corrective Action Demonstration

If a corrective action program is required pursuant to Section 616.210, it is presumed that contamination from the facility or unit that is being monitored is responsible for the groundwater standard being exceeded. An owner or operator may overcome that presumption by making a demonstration that a source other than the facility or unit that is being monitored caused the groundwater standard to be exceeded, or that the cause of the groundwater standard being exceeded is due to error in sampling, analysis or evaluation.

- a) In making such demonstration the owner or operator shall:

- 1) Notify the Agency that the owner or operator intends to make a demonstration under this Section when submitting the groundwater monitoring results required pursuant to Section 616.206; and
- 2) Submit a report to the Agency that demonstrates that a source other than a facility or unit for which he is the owner or operator caused the groundwater standard to be exceeded, or that the groundwater standard was exceeded due to an error in sampling, analysis or evaluation. Such report must be included with the next submission of groundwater monitoring results required pursuant to Section 616.206; and

- b) The Agency shall provide a written response to the owner or operator, based upon the written demonstration and any other relevant information, that specifies either:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- 1) Concurrence with the written demonstration for alternative corrective action with requirements to continue to monitor in accordance with the groundwater monitoring program established pursuant to Sections 616.205 and 616.210; or
- 2) Non-concurrence with the written demonstration for alternative corrective action and a description of the inadequacies of such demonstration.
- c) An owner or operator who receives a written response of non-concurrence pursuant to subsection (c) shall have 30 days to so respond to the Agency in writing or to request a conference with the Agency. Upon receipt of a written request for such a conference, the Agency shall schedule and hold the conference within 30 days. Following a conference, the Agency shall provide the owner or operator with a final determination regarding the adequacy of the alternative corrective action.
- d) The owner or operator shall begin the corrective action program in accordance with the requirements of Section 616.210(f).

SUBPART C: GENERAL CLOSURE AND POST-CLOSURE REQUIREMENTS

Section 616.301 Applicability

This Subpart applies to:

- a) Land treatment units subject to Subpart E;
- b) Surface impoundments subject to Subpart F;
- c) Pesticide storage and handling units subject to Subpart I; and
- d) Fertilizer storage and handling units subject to Subpart J.

Section 616.302 Closure Performance Standard

The owner or operator shall close the unit in a manner that:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- a) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of waste, waste constituents, leachate, contaminated runoff or waste decomposition products to soils, groundwaters, surface waters, or the atmosphere;
- b) Minimizes the need for maintenance during and beyond the post-closure care period; and
- c) Complies with the closure requirements of 35 Ill. Adm. Code: Subtitles C and G.

Section 616.303 Certification of Closure

Within 60 days after completion of closure of each unit, the owner or operator shall submit to the Agency, by registered or certified mail, a certification that the unit has been closed in accordance with the closure requirements. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the Agency upon request.

Section 616.304 Survey Plat

- a) No later than the submission of the certification of closure of each unit, the owner or operator shall submit to any local zoning authority, or authority with jurisdiction over local land use, and to the Agency, and record with land titles, a survey plat indicating the location and dimensions of any waste disposal units, and any pesticide or fertilizer storage and handling units, with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a registered land surveyor.
- b) For pesticide storage and handling units or for fertilizer storage and handling units records or reports required under any other state or Federal regulatory program and which contain the information required above may be used to satisfy this reporting requirement.

Section 616.305 Post-Closure Notice for Waste Disposal Units

No later than 60 days after certification of closure of the unit, the owner or operator of a unit subject to Subparts D, E, or F shall submit to the Agency, to the County Recorder and to any

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

local zoning authority or authority with jurisdiction over local land use, a record of the type, location and quantity of wastes disposed of within each cell or other area of the unit.

Section 616.306 Certification of Completion of Post-closure Care

No later than 60 days after completion of the established post-closure care period, the owner or operator shall submit to the Agency, by registered or certified mail, a certification that the post-closure care period for the unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the Agency upon request.

Section 616.307 Post-Closure Care Period

The post-closure care period is as defined at Section 616.202.

SUBPART D: ON-SITE LANDFILLS

Section 616.401 Applicability

This Subpart applies to new landfill units which are located wholly or partially within a setback zone or regulated recharge area and that contain special waste or other waste generated on-site, except that this Subpart does not apply to any new landfill unit that:

- a) Contains solely one or more of the following: hazardous waste, livestock waste, landscape waste, or construction and demolition debris; or
- b) Is exempt from this Part pursuant to Section 616.105.

Section 616.402 Prohibitions

- a) Pursuant to Sections 14.2(a), 14.2(c) and 14.3(e) of the Act, no person shall cause or allow the construction or operation of any landfill unit that is:
 - 1) Located wholly or partially within a minimum setback zone and that is either a new potential primary source or a new potential secondary

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

source, except as specified in Sections 616.104(a) and (b); or

- 2) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104(b).

- b) No person shall cause or allow the disposal of special waste in a new on-site landfill unit within a regulated recharge area if the distance from the wellhead of the community water supply well to the landfill unit is 2500 feet or less, except as provided at Section 616.105.

SUBPART E: ON-SITE LAND TREATMENT UNITS

Section 616.421 Applicability

This Subpart applies to new land treatment units that are located wholly or partially within a setback zone or regulated recharge area and that treat or dispose of special waste or other waste generated on-site, except that this Subpart does not apply to any new land treatment unit that:

- a) Contains solely one or more of the following: hazardous waste, livestock waste, landscape waste, or construction and demolition debris; or
- b) Is exempt from this Part pursuant to Section 616.105.

Section 616.422 Prohibitions

- a) Pursuant to Sections 14.2(a), 14.2(c) and 14.3(e) of the Act, no person shall cause or allow the construction or operation of any land treatment unit that is:

- 1) Located wholly or partially within a minimum setback zone and that is either a new potential primary source or a new potential secondary source, except as specified in Sections 616.104(a) and (b); or
- 2) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104(b).

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

- b) Nothing in this Section shall prohibit land treatment within a maximum setback zone regulated by the Act of sludge resulting from the treatment of domestic wastewater or of sludge resulting from the treatment of water to produce potable water, if such activities are conducted in accordance with the Act and 35 Ill. Adm. Code: Subtitle C.

Section 616.423 Groundwater Monitoring

The owner or operator shall comply with the requirements of Subpart B.

Section 616.424 Design and Operating Requirements

The owner or operator shall design and operate the land treatment site in accordance with 35 Ill. Adm. Code: Subtitle C and 35 Ill. Adm. Code: Subtitle G.

Section 616.425 Closure and Post-Closure

The owner or operator shall comply with the requirements of Subpart C.

SUBPART F: ON-SITE SURFACE IMPOUNDMENTS

Section 616.441 Applicability

This Subpart applies to new surface impoundment units that are located wholly or partially within a setback zone or regulated recharge area and that contain special waste or other waste generated on-site, except that this Subpart does not apply to any new surface impoundment unit that:

- a) Contains solely one or more of the following: hazardous waste, livestock waste, landscape waste, or construction and demolition debris; or
- b) Is exempt from this Part pursuant to Section 616.105.

Section 616.442 Prohibitions

Pursuant to Sections 14.2(a), 14.2(c) and 14.3(e) of the Act, no person shall cause or allow the construction or operation of any surface impoundment unit that is:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- a) Located wholly or partially within a minimum setback zone and that is either a new potential primary source, or a new potential secondary source, except as specified in Sections 616.104(a) and (b); or
- b) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104(b).

Section 616.443 Groundwater Monitoring

The owner or operator shall comply with the requirements of Subpart B.

Section 616.444 Design Requirements

- a) The owner or operator of a surface impoundment shall install two or more liners and a leachate collection system between such liners. The requirement for the installation of two or more liners in this subsection may be satisfied by the installation of a top liner designed, operated, and constructed of materials to prevent the migration of any constituent into such liner during the period such facility remains in operation (including any post-closure monitoring period), and a lower liner designed, operated and constructed to prevent the migration of any constituent through such liner during such period. For the purpose of the preceding sentence, a lower liner shall be deemed to satisfy such requirement if it is constructed of at least a 5-foot thick layer of recompacted clay or other natural material with a permeability of no more than 1 x 10⁻¹⁰ centimeter per second.
- b) A surface impoundment must be designed, constructed, maintained and operated to prevent overtopping, resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms and other equipment; and human error.
- c) A surface impoundment must have dikes that are designed, constructed and maintained with sufficient structural integrity to prevent massive failure of the dikes. In ensuring structural integrity, it must not be presumed that the liner system will function without

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

leakage during the active life of the surface impoundment.

- d) The owner or operator shall maintain the following items:

- 1) Records describing the contents of the impoundment; and
- 2) A map showing the exact location and dimensions of the impoundment, including depth with respect to permanently surveyed benchmarks.

Section 616.445 Inspection Requirements

- a) During construction and installation, liners must be inspected for uniformity, damage and imperfections (e.g., holes, cracks, thin spots or foreign materials). Immediately after construction or installation:
 - 1) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures and blisters; and
 - 2) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes or other structural non-uniformities that may cause an increase in the permeability of that liner or cover.
- b) While a surface impoundment is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:
 - 1) Deterioration, malfunctions or improper operation of overtopping control systems;
 - 2) Sudden drops in the level of the impoundment's contents;
 - 3) Severe erosion or other signs of deterioration in dikes or other containment devices; or
 - 4) A leaking dike.

Section 616.446 Operating Requirements

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

- a) No person shall cause or allow incompatible materials to be placed in the same surface impoundment unit.
 - b) A surface impoundment unit must be removed from service in accordance with subsection (c) when:
 - 1) The level of liquids in the unit suddenly drops and the drop is not known to be caused by changes in the flows into or out of the unit; or
 - 2) The dike leaks.
 - c) When a surface impoundment unit must be removed from service as required by subsection (b), the owner or operator shall:
 - 1) Shut off the flow or stop the addition of wastes into the impoundment unit;
 - 2) Contain any surface leakage that has occurred or is occurring;
 - 3) Stop the leak;
 - 4) Take any other necessary steps to stop or prevent catastrophic failure;
 - 5) If a leak cannot be stopped by any other means, empty the impoundment unit; and
 - 6) Notify the Agency of the removal from service and corrective actions that were taken, such notice to be given within 10 days after the removal from service.
 - d) No surface impoundment unit that has been removed from service in accordance with the requirements of this Section may be restored to service unless the portion of the unit that failed has been repaired.
 - e) A surface impoundment unit that has been removed from service in accordance with the requirements of this Section and that is not being repaired must be closed in accordance with the provisions of Section 616.447.
- Subpart 616.447 Closure and Post-Closure Care
- If closure is to be by removal, the owner or operator shall remove all waste, all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils and structures and equipment contaminated with waste and leachate; and, if disposed of in the State of Illinois, dispose of them at a disposal site permitted by the Agency under the Act.
- If closure is not to be by removal, the owner or operator shall comply with the requirements of Subpart C and shall:
- 1) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues.
 - 2) Stabilize remaining wastes to a bearing capacity sufficient to support final cover.
 - 3) Cover the surface impoundment unit with a final cover designed and constructed to:
 - A) Provide long-term minimization of the migration of liquids through the closed impoundment unit;
 - B) Function with minimum maintenance;
 - C) Promote drainage and minimize erosion or abrasion of the final cover;
 - D) Accommodate settling and subsidence so that the cover's integrity is maintained; and
 - E) Have a permeability less than or equal to the permeability of any bottom liner system.
- If some waste residues or contaminated materials are left in place at final closure, the owner or operator shall comply with the requirements of Subpart C and shall for a period of 5 years after closure:
- 1) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion or other events;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- 2) Maintain and monitor the groundwater monitoring system; and
- 3) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

SUBPART G: ON-SITE WASTE PILES

Section 616.461 Applicability

This Subpart applies to new waste piles that are located wholly or partially within a setback zone or regulated recharge area and that contain special waste or other waste generated on-site, except that this Subpart does not apply to any new waste pile that:

- a) Contains solely one or more of the following: hazardous waste, livestock waste, landscape waste, or construction and demolition debris; or
- b) Consists of sludge resulting from the treatment of domestic wastewater from a POTW and the sludge pile is situated on an underdrained pavement and operated in accordance with the Act, 35 Ill. Adm. Code: Subtitle C and 35 Ill. Adm. Code: Subtitle G; or
- c) Is exempt from this Part pursuant to Section 616.105.

Section 616.462 Prohibitions

- a) Pursuant to Sections 14.2(a), 14.2(c) and 14.3(e) of the Act, no person shall cause or allow the construction or operation of any waste pile that is:
 - 1) Located wholly or partially within a minimum setback zone and that is either a new potential primary source or a new potential secondary source, except as specified in Sections 616.104(a) and (b); or
 - 2) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104(b).
- b) No person shall cause or allow the disposal of special waste in a new waste pile within a regulated recharge

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

area if the distance from the wellhead of the community water supply well to the waste pile is 2500 feet or less, except as provided at Section 616.105.

- c) Nothing in this Section shall prohibit a waste pile, within a maximum setback zone regulated by the Act, of sludge resulting from the treatment of domestic wastewater or of sludge resulting from the treatment of water to produce potable water, if such activities are conducted in accordance with the Act, 35 Ill. Adm. Code: Subtitle C, Subtitle F, and Subtitle G.

Section 616.463 Design and Operating Requirements

- a) No person shall cause or allow:

- 1) Disposal or storage in the waste pile of liquids or materials containing free liquids; or
- 2) Migration and runoff of leachate into adjacent soil, surface water, or groundwater.

- b) A waste pile must comply with the following standards:

- 1) The waste pile must be under an impermeable membrane or cover that provides protection from precipitation;
- 2) The waste pile must be protected from surface water run-on; and
- 3) The waste pile must be designed and operated to control wind dispersal of waste by a means other than wetting.

Section 616.464 Closure

The owner or operator shall accomplish closure by removing and disposing of all wastes and containment system components (liners, etc). If disposed of in the State of Illinois, the waste and containment system components must be disposed of at a disposal site permitted by the Agency under the Act.

SUBPART H: UNDERGROUND STORAGE TANKS

Section 616.501 Applicability

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

This Subpart applies to new underground storage tanks that are located wholly or partially within a setback zone or regulated recharge area and that contain special waste, except that this Subpart does not apply to any new underground storage tank that:

- a) Pursuant to 35 Ill. Adm. Code 731.110(a) must meet the requirements set forth in 35 Ill. Adm. Code 731, unless such a tank is excluded from those requirements pursuant to 35 Ill. Adm. Code 731.110(b); or
- b) Must have interim status or a RCRA permit under 35 Ill. Adm. Code: Subtitle G; or
- c) Is exempt from this Part pursuant to Section 616.105.

Section 616.502 Design and Operating Requirements

Owners and operators of new underground storage tanks that store special waste shall meet the requirements set forth in 35 Ill. Adm. Code 731. Such requirements must be met even if the tanks are excluded from coverage under 35 Ill. Adm. Code 731 by 35 Ill. Adm. Code 731.110(b). The exclusions set forth in 35 Ill. Adm. Code 731.110(b) shall not apply to any underground storage tank that stores special waste.

SUBPART I: PESTICIDE STORAGE AND HANDLING UNITS

Section 616.601 Applicability

- a) This Subpart applies to any new unit for the storage and handling of pesticides that is located wholly or partially within a setback zone or regulated recharge area and that:
 - 1) Is operated for the purpose of commercial application; or
 - 2) Stores or accumulates pesticides prior to distribution to retail sales outlets, including but not limited to a unit that is a warehouse or bulk terminal.
- b) Subsections (1) and (2) notwithstanding, this Subpart does not apply to any unit exempt pursuant to Section 616.105.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

Section 616.602 Prohibitions

Pursuant to Sections 14.2(a), 14.2(c) and 14.3(e) of the Act, no person shall cause or allow the construction or operation of any unit for the storage and handling of pesticides that is:

- a) Located wholly or partially within a minimum setback zone and that is either a new potential primary source or a new potential secondary source, except as specified in Section 616.104(a) and (b); or
- b) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104(b).

Section 616.603 Groundwater Monitoring

The owner or operator shall comply with the requirements of Subpart B.

Section 616.604 Design and Operating Requirements

The owner or operator shall:

- a) Maintain a written record inventorying all pesticides stored or handled at the unit.
- b) At least weekly when pesticides are being stored, inspect storage containers, tanks, vents, valves, and appurtenances for leaks or deterioration caused by corrosion or other factors. If a leak or deterioration is found in any of these devices, the owner or operator must immediately repair or replace the device. The owner or operator shall maintain a written record of all inspections conducted under this Section and of all maintenance relating to leaks and deterioration of these devices.
- c) Store all containers containing pesticides within a pesticide secondary containment structure, if such containers are stored outside of a roofed structure or enclosed warehouse. For the purpose of this subsection, a pesticide secondary containment structure is a structure that complies with the design standards set forth in 8 Ill. Adm. Code 255.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- d) Maintain all written records required under this Section at the site. The owner or operator shall provide any such record to the Agency upon request.

(Board Note: Owners or operators of facilities or units subject to this Part may also be subject to regulations under 8 Ill. Adm. Code 255.)

Section 616.605 Closure and Post-Closure Care

The owner or operator shall comply with the requirements of Subpart C.

SUBPART J: FERTILIZER STORAGE AND HANDLING UNITS

Section 616.621 Applicability

This Subpart applies to any new unit for the storage and handling of fertilizers that is located wholly or partially within a setback zone or regulated recharge area and that:

- a) Is operated for the purpose of commercial application; or
- b) Stores or accumulates fertilizers prior to distribution to retail sales outlets, including but not limited to a unit that is a warehouse or bulk terminal.
- c) Subsections (a) and (b) notwithstanding, this Subpart shall not apply to any unit exempt pursuant to Section 616.105.

Section 616.622 Prohibitions

Pursuant to Sections 14.2(a), 14.2(c) and 14.3(e) of the Act, no person shall cause or allow the construction or operation of any unit for the storage and handling of fertilizers that is:

- a) Located wholly or partially within a minimum setback zone and that is either a new potential primary source or a new potential secondary source, except as specified in Sections 616.104(a) and (b); or
- b) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104(b).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

Section 616.623 Groundwater Monitoring

The owner or operator shall comply with the requirements of Subpart B.

Section 616.624 Design and Operating Requirements

The owner or operator shall:

- a) Maintain a written record inventorying all fertilizers stored or handled at the unit.
- b) At least weekly when fertilizers are being stored, inspect storage containers, tanks, vents, valves, and appurtenances for leaks or deterioration caused by corrosion or other factors. If a leak or deterioration is found in any of these devices, the owner or operator shall immediately repair or replace the device. The owner or operator shall maintain a written record of all inspections conducted under this Section and of all maintenance relating to leaks and deterioration of these devices.
- c) Store all containers containing fertilizers (except anhydrous ammonia) within a fertilizer secondary containment structure, if such containers are stored outside of a roofed structure or enclosed warehouse. For the purpose of this subsection, a fertilizer secondary containment structure is a structure that complies with the design standards set forth in 8 Ill. Adm. Code 255.
- d) Maintain all written records required under this Section at the site. The owner or operator shall provide any such record to the Agency upon request.

(Board Note: Owners or operators of facilities or units subject to this Part may also be subject to regulations under 8 Ill. Adm. Code 255.)

Section 616.625 Closure and Post-Closure Care

The owner or operator shall comply with the requirements of Subpart C.

SUBPART K: ROAD OIL STORAGE AND HANDLING UNITS

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

- Section 616.701 Applicability
- This Subpart applies to any new unit for the storage and related handling of road oils that is located wholly or partially within a setback zone or regulated recharge area and at which greater than 25,000 gallons of road oils are stored or accumulated at any one time, except as otherwise provided in Section 616.105.
- Section 616.702 Prohibitions
- Pursuant to Sections 14.2(a), 14.2(c) and 14.3(e) of the Act, no person shall cause or allow the construction or operation of any unit for the storage and handling of road oils that is:
- Located wholly or partially within a minimum setback zone and that is either a new potential primary source or a new potential secondary source, except as specified in Sections 616.104(a) and (b); or
 - Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104(b).
- Section 616.703 Groundwater Monitoring
- The owner or operator shall comply with the requirements of Subpart B.
- Section 616.704 Design and Operating Requirements for Above-Ground Storage Tanks
- The owner or operator of a tank shall not cause or allow:
 - Materials to be placed in a tank if such materials could cause the tank to rupture, leak, corrode, or otherwise fail.
 - Uncovered tanks to be placed or operated so as to maintain less than 60 centimeters (2 feet) of freeboard unless:
 - The tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank); and
- The owner or operator shall provide and maintain secondary containment for the tank that:
 - Is capable of containing the volume of the largest tank or 10% of the total volume for all tanks, whichever is greater;

- Such containment structure, drainage control system, or diversion structure has a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank.
- Material to be continuously fed into a tank, unless the tank is equipped with a means to stop this inflow (e.g., a feed cutoff system or a bypass system to a standby tank).
- Incompatible materials to be placed in the same tank.
- Material to be placed in a tank that previously held an incompatible material unless the incompatible material has been washed from the tank.
- Ignitable or reactive material to be placed in a tank unless:
 - The material is stored or treated in such a way that it is protected from any material or conditions that may cause it to ignite or react; or
 - The tank is used solely for emergencies.
- The owner or operator shall provide and maintain primary containment for the tank such that:
 - The tank has a minimum shell thickness that ensures that the tank will not fail (i.e., collapse, rupture, etc.).
 - The tank is compatible with the material to be placed in the tank or the tank is lined with a substance that is compatible with the material to be placed on the tank.
- The owner or operator shall provide and maintain secondary containment for the tank that:
 - Is capable of containing the volume of the largest tank or 10% of the total volume for all tanks, whichever is greater;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- 2) Is constructed of material capable of containing a spill until cleanup occurs (e.g., concrete or clay). The base of the secondary containment area must be capable of minimizing vertical migration of a spill until cleanup occurs (e.g., concrete or clay);
- 3) Has cover (e.g., crushed rock or vegetative growth) on earthen embankments sufficient to prevent erosion; and
- 4) Isolates the tank from storm water drains and from combined storm water drains and sanitary sewer drains.
- d) If incompatible materials are handled at the site, secondary containment sufficient to isolate the units containing the incompatible materials must be provided.
- e) The owner or operator of a tank shall also:
 - 1) Test above-ground tanks and associated piping every five years for structural integrity.
 - 2) Remove uncontaminated storm water runoff from the secondary containment area immediately after a precipitation event.
 - 3) Handle contaminated storm water runoff in accordance with 35 Ill. Adm. Code 302.Subpart A.
 - 4) Provide a method for obtaining a sample from each tank.
 - 5) Install, maintain, and operate a material level indicator on each tank.
 - 6) When not in use, lock all gauges and valves that are used to inspect levels in the tank. All such devices must be located within the containment structure.

Section 616.705 Closure

- a) At closure, all materials must be removed from containers, tanks, discharge control equipment, and discharge confinement structures.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

- b) All materials that are to be disposed of in the State of Illinois must be disposed of at a disposal site permitted by the Agency under the Act.

SUBPART L: DE-ICING AGENT STORAGE AND HANDLING UNITS

Section 616.721 Applicability

This Subpart applies to any new facility for the storage and related handling of de-icing agents that is located wholly or partially within a setback zone and at which more than 50,000 pounds of de-icing agent are stored or accumulated at any one time, except as otherwise provided in Section 616.105. For the purpose of this Subpart:

- a) An indoor storage unit means a storage unit with a roof capable of protecting de-icing agents from wind and precipitation;
- b) An outdoor storage unit means a unit for the storage of de-icing agents that is not an indoor storage unit.

Section 616.722 Prohibitions

- a) Pursuant to Sections 14.2(a), 14.2(c) and 14.3(e) of the Act, no person shall cause or allow the construction or operation of any unit for the storage and handling of de-icing agents that is:
 - 1) Located wholly or partially within a minimum setback zone and that is either a new potential primary source or a new potential secondary source, except as specified in Sections 616.104(a) and (b); or
 - 2) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104(b).
- b) No person shall cause or allow the construction or operation within any setback zone of any outdoor facility for the storage and handling of de-icing agents, except as provided at Section 616.105.

Section 616.723 Groundwater Monitoring

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

The owner or operator shall comply with the requirements of Subpart B.

Section 616.724 Design and Operating Requirements for Indoor Storage Facilities

- a) The base of the facility must be constructed of materials capable of containing de-icing agents (i.e., bituminous or concrete pad).
- b) The roof and walls of the facility must be constructed of materials capable of protecting the storage pile from precipitation and capable of preventing dissolved de-icing agents from entering into the adjacent soil, surface water, or groundwater. The walls of the facility must be constructed of materials compatible with the de-icing agents to be placed in the facility. Run-off from the roof must be diverted away from the loading pad.
- c) The loading pad of the facility must be constructed of materials capable of containing a spill (i.e., concrete or bituminous pad). The borders of the loading pad must be curbed to prevent dry or dissolved de-icing agents from migrating from the loading pad into the adjacent soils, surface water, or groundwater. The loading pad must be covered by a roof of sufficient size to provide the pad and de-icing agents with protection from precipitation to prevent run-off or dissolved de-icing agents from entering into the adjacent soil, surface water, or groundwater.
- d) All areas surrounding the storage pile, including but not limited to the loading pad, must be routinely inspected to determine whether any release of de-icing agents has occurred. Such areas shall be cleaned as necessary. Spilled de-icing agents must be placed back under the protective covering of the indoor storage pile. The storage pile must be reshaped as often as necessary to prevent leaching.
- e) The integrity of the facility and loading pad must be maintained.
- f) All areas surrounding the storage facility must be inspected daily to determine whether any release of de-

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

icing agents has occurred. Spilled de-icing agents must be placed back into the storage facility.

Section 616.725 Closure

- a) At closure, all de-icing agents must be removed from the site, discharge control equipment and discharge confinement structures.
- b) All de-icing agents that are to be disposed of in the State of Illinois must be disposed of at a disposal site permitted by the Agency under the Act.

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Regulated Recharge Areas
- 2) Code Citation: 35 Ill. Adm. Code 617
- 3) Section Numbers: Adopted Action:
617.101 New Section
617.102 New Section
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1017.4 and 1027
- 5) Effective Date of Rule: January 10, 1992
- 6) Does this rulemaking contain an automatic repeal date?: No
- 7) Does this Rule contain incorporations by reference? No
- 8) Date filed in Board's Principal Office: December 6, 1991
- 9) Notice of Proposal Published in Illinois Register:
July 5, 1991, 15 Ill. Reg. 9882
- 10) Has JCAR issued a Statement of Objections to these rules?
Yes
- A) Statement of Objection: December 6, 1991, 15 Ill. Reg. 17794
- B) Agency Response: January 24, 1992, 16 Ill. Reg. 1734
- C) Date Agency Response Submitted for Approval to JCAR:
December 6, 1991
- 11) Differences between proposal and final version:
Only minor grammatical changes have been made.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR?
No formal agreements were issued by JCAR. However, the Board accepted grammatical corrections recommended by JCAR staff.
- 13) Will this Rule replace an emergency Rule currently in effect? No

- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Rule:
The rules are part of a proceeding adopted entitled Groundwater Protection: Regulations For Existing and New Activities Within Setback Zones and Regulated Recharge Areas, Board Docket R89-5. The purpose of these rules is to provide a Part where boundaries established for regulated recharge areas pursuant to Section 17.4 of the Environmental Protection Act may be placed. Other related rulemakings are proposed new Parts 615 and 616 and proposed amendments to Part 601 and are contained in separate notices pertaining to those parts. A complete description is also contained in the Board's Opinion and Order of December 6, 1991, which is available from the Clerk of the Board: Dorothy M. Gunn, Clerk, State of Illinois Pollution Control Board, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601.

- 16) Information and questions regarding this adopted rule shall be directed to:

Michelle C. Dresdow
Illinois Pollution Control Board
P.O. Box 505
DeKalb, IL 60115
(815) 753-0947

The full text of the Adopted Rule begins on the next page:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARDPART 617
REGULATED RECHARGE AREAS

SUBPART A: GENERAL

Section
617.101
617.102

Purpose
Definitions

AUTHORITY: Implementing and authorized by Sections 17.4 and 27 of the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1017.4 and 1027).

Source: Adopted in R89-5 at 16 Ill. Reg. 1639 effective January 10, 1992

SUBPART A: GENERAL

Section 617.101

Purpose

This Part sets out regulated recharge areas as delineated pursuant to Section 17.4 of the Illinois Environmental Protection Act (Act), Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1001 et seq.

Section 617.102

Definitions

Unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part shall be the same as those used in 35 Ill. Adm. Code 615.102, the Act, or the Illinois Groundwater Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 7451 et seq.).

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers: Proposed Action:
130.310 Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 120, par. 441-10
- 5) Effective Date of Amendment(s): January 13, 1992
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 13, 1992
- 9) Notice of Proposal Published in Illinois Register:
October 18, 1991, 15 Ill. Reg. 15013
- 10) Has ICAR issued a Statement of Objections to these Amendments? No
- 11) Differences between proposal and final version:
In response to public comment, the following changes were made:
 - 1) Immediately after the second sentence of Section 130.310(c)(2), the Department added a sentence that states "Purchases of medical appliances by lessors which will be leased to others for human use also qualify for the exemption."
 - 2) The Department modified Section 130.310(c)(2) to add after "dialysis machines", the parenthetical phrase "(including the dialyzer)."
 - 3) The Department modified Section 130.310(c)(2) to delete the word "and" before "eyeglasses", deleted the strike-thru of the comma after the word "eyeglasses" and added after the word "eyeglasses" the phrase "and contact lenses."

In response to discussions with the staff of the Joint Committee on Administrative Rules the following changes were made:

 - 1) The Department modified the Table of Contents by deleting "Oculists" from the title of Section 130.1980.

- 2) The Department updated the main source note and the section source note to refer to Volume 16 of the Illinois Register.
- 3) The Department modified Section 130.310(c)(2) to delete the periods after the words "eyeglasses" and "contact lenses."
- 12) Have all the changes agreed upon by the agency and ICAR been made as indicated in the agreement letter issued by ICAR? yes
- 13) Will this amendment replace an emergency amendment currently in effect? no
- 14) Are there any amendments pending on this Part? yes

Section Numbers	Proposed Action	IL Register Citation
130.101	Amendment	15 Ill. Reg. 18511 12/27/91
130.120	Amendment	15 Ill. Reg. 18511 12/27/91
130.401	Amendment	15 Ill. Reg. 18511 12/27/91
130.501	Amendment	15 Ill. Reg. 18511 12/27/91
130.502	Amendment	15 Ill. Reg. 18511 12/27/91
130.505	Amendment	15 Ill. Reg. 18511 12/27/91
130.510	Amendment	15 Ill. Reg. 18511 12/27/91
130.535	Amendment	15 Ill. Reg. 18511 12/27/91
130.540	Amendment	15 Ill. Reg. 18511 12/27/91
130.551	Amendment	15 Ill. Reg. 18511 12/27/91
130.815	Amendment	15 Ill. Reg. 18511 12/27/91
130.901	Amendment	15 Ill. Reg. 18511 12/27/91
130.1405	Amendment	15 Ill. Reg. 18511 12/27/91
130.1701	Amendment	15 Ill. Reg. 18511 12/27/91
130.1925	Amendment	15 Ill. Reg. 18511 12/27/91
130.2145	Amendment	15 Ill. Reg. 18511 12/27/91

- 15) Summary and Purpose of Amendment(s): This rulemaking amends the Department's rules concerning food, drugs, medicines and medical appliances. Section 130.310(a) is amended to delete outdated language and quote the current version of the Illinois Revised Statutes. In response to the decision in Travenol Laboratories Inc. v. J. Thomas Johnson, Director, Illinois Department of Revenue, 1990, 195 Ill. App.3d 532, the Department has repealed Section 130.310(c)(3). In conjunction with the repeal of this provision, the Department has clarified the definition of "medical appliance" to reflect the decision in Travenol that medical appliances used by health care professionals and not transferred to their patients in providing medical services qualify for the reduced rate of tax.

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 16) Information and questions regarding this adopted amendment shall be directed to:

Stanley T. Cichowski
Manager
Illinois Department of Revenue
Legal Services Bureau
101 West Jefferson
Springfield, Illinois 62708
Phone: (217) 782-7054

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 86: REVENUE
CHAPTER 1: DEPARTMENT OF REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

SURPART A: NATURE OF TAX

Section	Character and Rate of Tax
30.101	Responsibility of Trustees, Receivers, Executors or Administrators
30.105	Occasional Sales
30.110	Sale of Used Motor Vehicles by Leasing or Rental Business
30.111	Habitual Sales
30.115	Nontaxable Transactions
30.120	

SUBPART B: SALE AT RETAIL

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT(S)

130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax
130.440	Penalties
130.445	Federal Taxes
130.450	Installation, Alteration and Special Service Charges
	 SUBPART E: RETURNS
	 Monthly Tax Returns--When Due--Contents
130.501	Quarterly Tax Returns
130.502	Returns and How to Prepare
130.505	Annual Tax Returns
130.510	First Return
130.515	Final Returns When Business is Discontinued
130.520	Who May Sign Returns
130.525	Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations
130.530	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.535	Returns on a Transaction by Transaction Basis
130.540	Registrants Must File a Return for Every Return Period
130.545	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.550	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.551	Vending Machine Information Returns
130.555	Verification of Returns
130.560	

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT(S)

130.740 Certificate Required For Mobile Vending Units
130.745 Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section

130.801 General Requirements
130.805 What Records Constitute Minimum Requirement
130.810 Records Required to Support Deductions
130.815 Preservation and Retention of Records
130.820 Preservation of Books During Pendency of Assessment Proceedings
130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

Section

130.901 Civil Penalties
130.905 Interest
130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section

130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section

130.1101 Definition of Federal Area
130.1105 When Deliveries on Federal Areas Are Taxable
130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section

130.1201 General Information
130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section

130.1301 When Lessee of Premises Must File Return for Leased Department
130.1305 When Lessor of Premises Should File Return for Leased Department
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT(S)

Section
130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
130.1410 Requirements for Certificates of Resale (Repealed)
130.1415 Resale Number--When Required and How Obtained
130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

130.1501 Claims for Credit--Limitations--Procedure
130.1505 Disposition of Credit Memoranda by Holders Thereof
130.1510 Refunds
130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS

Section

130.1601 When Returns are Required After a Business is Discontinued
130.1605 When Returns Are Not Required After Discontinuation of a Business
130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section

130.1801 When Powers of Attorney May be Given
130.1805 Filing of Power of Attorney With Department
130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

Section

130.1901 Addition Agents to Plating Baths
130.1905 Agricultural Producers
130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
130.1915 Auctioneers and Agents
130.1920 Barbers and Beauty Shop Operators
130.1925 Blacksmiths
130.1930 Chiropodists, Osteopaths and Chiropractors
130.1935 Computer Software

130.1940	Construction Contractors and Real Estate Developers	130.2115	Sellers of Machinery, Tools and the Like
130.1945	Co-operative Associations	130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.1950	Dentists	130.2125	Trading Stamps and Discount Coupons
130.1951	Enterprise Zones	130.2130	Undertakers and Funeral Directors
130.1955	Farm Chemicals	130.2135	Vending Machines
130.1960	Finance Companies and Other Lending Agencies - Installment Contracts	130.2140	Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items made to Order
	- Repossessions	130.2145	Vendors of Meals
130.1965	Florists and Nurserymen	130.2150	Vendors of Memorial Stones and Monuments
130.1970	Hatcheries	130.2155	Vendors of Signs
130.1975	Operators of Games of Chance and Their Suppliers	130.2156	Vendors of Steam
130.1980	Optometrists and Opticians	130.2160	Vendors of Tangible Personal Property Employed for Premiums,
130.1985	Pawnbrokers		Advertising, Prizes, Etc.
130.1990	Peddlers, Hawkers and Itinerant Vendors	130.2165	Veterinarians
130.1995	Personalizing Tangible Personal Property	130.2170	Warehousemen
130.2000	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers		ILLUSTRATION A: Examples of Tax Exemption Cards
130.2005	Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons		
130.2006	Sales by Teacher-Sponsored Student Organizations		
130.2007	Exemption Identification Numbers		
130.2008	Sales by Nonprofit Service Enterprises		
130.2010	Persons Who Rent or Lease the Use of Tangible Personal Property to Others		
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property		
130.2020	Physicians and Surgeons		
130.2025	Picture-Framers		
130.2030	Public Amusement Places		
130.2035	Registered Pharmacists and Druggists		
130.2040	Retailers of Clothing		
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like		
130.2050	Sales and Gifts By Employers to Employees		
130.2055	Sales by Governmental Bodies		
130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products		
130.2065	Sales of Automobiles for Use in Demonstration		
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products		
130.2075	Sales To Construction Contractors, Real Estate Developers and Speculative Builders		
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel		
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions		
130.2090	Sales to Railroad Companies		
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles		
130.2100	Sellers of Feeds and Breeding Livestock		
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and Their Suppliers		
130.2110	Sellers of Seeds and Fertilizer		

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 120, pars. 440 et seq.) and authorized by Section 39b3 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 39b3).

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended

DEPARTMENT OF REVENUE

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT(S)

NOTICE OF ADOPTED AMENDMENT(S)

at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 15 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992.

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.310 Food, Drugs, Medicines and Medical Appliances

- a) General. Effective--January--17--1989--through--December--31--1989 notwithstanding the fact that the sales may be at retail, with respect to food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food which has been prepared for immediate consumption), and prescription and non-prescription medicines, drugs, medical appliances, and insulin, urine testing utensils, syringes, and needles used by diabetics, for human use, the tax is imposed at the rate of 1%. (Section 2-10 of the Act) will be taxed at the rate of 3% of the gross receipts from such sales. Effective--January--17--1981--such sales will be taxed at the rate of 2% of the gross receipts from such sales. Effective--January--17--1984--such sales will be taxed at the rate of 0% of gross receipts from such sales. Local tax may still be imposed on such sales notwithstanding the reductions in the State rate.

b) Food

- 1) A food is any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins, bottled water and ice.
- 2) Gross receipts from sales of food for which facilities are provided so that it can be consumed on the premises where it is sold and gross receipts from sales of food which has been prepared for immediate consumption do not qualify for the reduced rate. For example:
 - A) gross receipts from sales of food and drinks by restaurants, coffee shops, cafeterias and other establishments selling food which has been prepared for immediate consumption or which provide facilities for on-premises consumption are subject to the full rate of tax.
 - B) concession stands, snack shops and other establishments which sell food items primarily (more than 50%) in individual sized servings (such as ice cream cones, bags of popcorn, and individually served sandwiches) make sales of food for immediate consumption.
 - C) sales of all hot food and hot food products are sales of food for immediate consumption.
- 3) Delicatessens, markets, dairies and bakeries and other establishments which sell food items primarily (more than 50%) in

quantities greater than individual sized servings incur the reduced rate on gross receipts from retail sales of food items. However, the full rate will apply to all sales made by such establishments which provide facilities for the consumption of food on premises unless those facilities utilize a separate means of collecting recording and accounting for collection of receipts from such sales for consumption on the premises and are physically partitioned from areas in which food not for immediate consumption is sold. The phrase "separate means of recording and accounting for collection of receipts" includes cash registers which separately identify high rate and low rate sales, separate cash registers, and other methods by which the tax on high rate and low rate sales are recorded at the time of collection.

- 4) The reduced rate does not extend to alcoholic beverages. An alcoholic beverage is any beverage subject to the tax imposed under Article VIII of "The Liquor Control Act of 1934" (Ill. Rev. Stat. 1987, ch. 43, pars. 94 et seq.).
- 5) Effective--September--17--1984, The reduced rate does not extend to soft drinks. Soft drinks will be taxed at the State sales tax rate of 5% 6.25%. The term "soft drinks" means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description which that are contained in any closed or sealed bottle, can, carton, or container regardless of size. "Soft drinks" do not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in Section 3(a)(2) and (4) of the Grade A Pasteurized Milk and Milk Products Act (Ill. Rev. Stat. 1987, ch. 56 1/2, pars. 2201 et seq.), or drinks containing 50% or more natural fruit or vegetable juice. (Section 2-10 of the Act) frozen concentrated fruit juice, dry powdered drink mixes, and fruit juices which are reconstituted to natural strength are not soft drinks. Section--2--of--the--Retailers--Occupation--Tax--Act--(1117--Rev--Stat--1987--ch--187--par--441)
- 6) Food prepared for immediate consumption means food made ready by the retailer to be eaten without substantial delay after the final stage of preparation by the retailer. Retailers who sell food which they do not prepare in any way, are not selling food for immediate consumption, i.e., pre-packaged candy bars, snacks, chips, ice cream, unless that food is to be consumed on the retailer's premises. It is presumed that retailers who sell food prepared for immediate consumption in individual single-sized servings will sell all such items for consumption without substantive delay. Thus, for example, a retailer of individual sandwiches, doughnuts or cookies prepared in the morning will be subject to the high rate of tax regardless of when during a business day such items are sold and actually consumed. "Premises" are that area over which the vendor exercises control,

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT(S)

whether by lease, contract, license or otherwise, and, in addition, the area in which facilities for eating are provided, including areas designated for, or devoted to, use in conjunction with the business engaged in by the vendor. Thus, all food sold by a restaurant for consumption on premises, whether prepared for immediate consumption or not, is subject to the high rate. Candy bars sold through a vending machine located outside a service station with no facilities for consumption, would be subject to the low rate of tax, while an identical candy bar sold through an identical vending machine in a cafeteria, break area, or a location with shared eating facilities, would be subject to the high rate. Vendor premises would include eating areas provided by employers for employees, common or shared eating areas in shopping centers or public buildings if customers of food vendors adjacent to such areas are permitted to use them for consumption of food products. It will be presumed that food sold by vendors with on-premises consumption facilities will, in fact, be consumed on premises unless the vendor presents evidence to the contrary from its books and records.

c) Medicines and Medical Appliances

- 1) A medicine or drug is any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities.
- 2) A medical appliance is an item which is intended by its manufacturer for use in directly substituting for a malfunctioning the-maker-to-correct-any-functioning part of the body. Such items may be prescribed by licensed health care professionals for the use of patients, or purchased directly by individuals. Purchases of medical appliances by lessors which will be leased to others for human use also qualify for the exemption, or which is used as a substitute for any functioning part of the body, included in the exemption as medical appliances are such items as artificial limbs, dental prostheses and orthodontic braces, crutches and orthopedic braces, wheelchairs, heart pacemakers, and dialysis machines (including the dialyzer), stretchers, corrective medical appliances such as hearing aids, corrective eyeglasses and contact lenses qualify for exemption dental prostheses and sterile cotton bandages and band-aids--the term "medical appliance" also includes testing equipment used by an individual to test his or her own medical condition. Diagnostic equipment shall not be deemed to be a medical appliance, except as provided in Section 130.310(d). Other medical tools, devices and equipment such as x-ray machines, laboratory equipment, and surgical instruments which may be used in the treatment of patients but, which do not directly substitute for a malfunctioning part of the human body do not qualify as exempt medical appliances.

3) Medical appliances used by health-care professionals--and--not

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT(S)

transferred--to--their--patients--in--providing--medical--services--do not--qualify--for--the--reduced--rate--of--tax--
 34) Supplies, such as non-sterile cotton swabs, disposable diapers, toilet paper, tissues and towels do not qualify for the reduced rate and cosmetics, such as lipsticks, perfume and hair tonics do not qualify for the reduced rate. Sterile dressings, bandages and gauze do qualify for the reduced rate. Diapers and absorbent pads for incontinent patients are not supplies.

d) Insulin, urine testing materials, syringes, and needles used in treating diabetes in human beings qualify for the reduced rate of tax.

(Section 2-10 of the Act)

ed) Reporting

- 1) The retailer must keep an actual record of all sales and must report tax at the applicable rates, based on sales as reflected in his records. Books and records must be maintained in sufficient detail so that all receipts reported with respect to food, drugs, medicines and medical appliances can be supported. The determination of the percentage of sales of food items sold in individual-sized servings referred to in subsections 2(b) and (3) above, will be made by comparing the dollar amounts of the gross receipts of the two categories of foods. The determination shall be based upon a period which will generally reflect the true character of overall sales rather than isolated or seasonal variations.
- 2) If a retailer finds it difficult to maintain detailed records of receipts from sales of food, drugs, medicines and medical appliances at the reduced rate, as well as detailed records of receipts from all other sales of tangible personal property at the full rate, he may request the use of a formula. Such requests must be made to the Department in writing and must state the reasons that a formula method is necessary and outline the proposed formula in detail. Included in the request must be a description of how the method can be audited by the Department. Upon findings that the formula can be audited and will produce results that will reasonably approximate the actual taxable receipts in each category, the Department may issue its approval for use of such formula. If approval is granted, the Department reserves the right to withdraw approval or require a change in procedure at any time.

(Source: Amended at 16 Ill. Reg. 1642, effective January 13, 1992)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Minimum Safety Standards for Construction of Type I School Buses

- 2) Code Citation: 92 Ill. Adm. Code 440

- 3) Section Numbers:

440.420

440.Illustration A

440.Illustration B

Adopted Action:

Amend

Amend

New Exhibit

- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 12-800 through 12-820

- 5) Effective date of rules:

January 14, 1992

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this amendment contain incorporations by reference?

Yes. These conform to Section 6.02(a) of the Illinois Administrative Procedure Act.

- 8) Date filed in agency's principal office: January 10, 1992

- 9) Notice of proposal published in Illinois Register:

September 6, 1991, 15 Ill. Reg. 13041

- 10) Has JCAR issued a Statement of Objections to these rules?
No

- 11) Differences between proposal and final version:

The following changes were made in agreement with JCAR and the Code Division:

The Part number has been typed in on the table of contents page in front of the Illustrations.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR?

No substantive agreements were necessary.

- 13) Will this rule replace an Emergency Rule currently in effect? No

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any amendments pending on this Part? No

- 15) Summary and purpose of rules:

By this Notice of Adopted Amendments, the Department proposes to revise its standards governing stop signal arms on Type I school buses. USDOT adopted a rule at 56 FR 20363, May 3, 1991, which establishes a new safety standard requiring that new school buses be equipped with an octagon shaped semaphore. The Department's authority concerning stop signal arms is contained in Section 12-803 (b) of the Illinois Vehicle Code (the Code) (Ill. Rev. Stat. 1989, ch. 95 1/2, par. 12-803 (b)). The federal regulation requires that buses manufactured on and after September 1, 1992, be equipped with a stop signal arm which is octagon shaped. Section 12-803(a) of the Code requires buses with a model year prior to 1984 be equipped with a hexagon shaped semaphore. Section 12-803 (b) of the Code authorizes the Department to set standards for buses with model years of 1984 or later. By this rulemaking, those buses with model years of 1984 or later, but manufactured prior to September 1, 1992, may be equipped with either a hexagon or an octagon shaped semaphore. Also, by this rulemaking, and, in keeping with the federal regulation, all school buses manufactured on and after September 12, 1992 must be equipped with the octagon shaped semaphore.

Additionally, in agreement with the Code Division, the Department corrected statutory language without showing strike throughs and underlining. The statutory language shown in this Section is now correctly shown.

Finally, the Department changed the authority note.

- 16) Information and questions regarding these adopted rules shall be directed to:

Ms. Mary Roseberry
Regulations Unit
Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 440
MINIMUM SAFETY STANDARDS FOR CONSTRUCTION
OF TYPE I SCHOOL BUSES

SUBPART A: INTRODUCTION

Section
440.10
440.20
440.30

Order
Guidelines
Responsibilities

SUBPART B: GENERAL

Section
440.110
440.120
440.130
440.140
440.150

Purpose
Scope
Applicability
Effective Date
Quantified Requirements

SUBPART C: DEFINITIONS

Section
440.205
440.210
440.220

Dictionary Used
Federal Definitions
State Definitions

SUBPART D: CERTIFICATION

Section
440.305
440.310
440.320

Certification by Manufacturer
Federal Standards
State Standards

SUBPART E: BODY REQUIREMENTS

Section
440.405
440.410
440.420

Conformance to the Requirements
Federal Requirements
State Requirements

SUBPART F: CHASSIS REQUIREMENTS

ILLINOIS REGISTER

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section
440.505
440.510
440.520

Conformance to the Requirements
Federal Requirements
State Requirements

440. ILLUSTRATION A Hexagon Shaped Stop Signal Arm
440. ILLUSTRATION B Octagon Shaped Stop Signal Arm
440. APPENDIX A Federal Motor Vehicle Safety Standards (FMVSS) and Related Regulations
440. APPENDIX B First Aid Kit Requirements (Referred to in Section 440.420(k))
440. APPENDIX C Specification Sheet Reflective Material -- Encapsulated Lens (Based on FHWA Notice N 5040.17, June 15, 1976)

AUTHORITY: Implementing Article VIII and authorized by Section 12-812 of the Illinois Vehicle Code (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 12-800 through 12-820).

SOURCE: Filed June 20, 1977; amended at 6 Ill. Reg. 7147, effective June 2, 1982; codified at 8 Ill. Reg. 15502; amended at 11 Ill. Reg. 15947, effective September 21, 1987; amended at 12 Ill. Reg. 8463, effective May 3, 1988; amended at 16 Ill. Reg. 1655, effective January 14, 1992.

NOTE: Capitalization denotes statutory language.

Section 440.420 State Requirements

EXCEPT FOR MIRRORS, WHICH MAY PROJECT 153 MM (6") BEYOND EACH SIDE OF THE BUS, A SCHOOL BUS SHALL NOT EXCEED 2.44 M (8 FEET) IN WIDTH, 4.12 M (13 FEET 6 INCHES) IN HEIGHT, NOR 12.81 M (42 FEET) IN LENGTH (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 15-102, 15-103 and 15-107). However, a new bus will not be considered in nonconformance with these standards and will not be rejected in a "safety test" because one or more signal, clearance, parking, or driving lamps, mirror frames or supports, bumpers, rub rails, flexible portions of fender skirts or splash guards, or other safety devices extend beyond the above stated limits as necessary to perform their safety function properly; provided, such extension does not present a "snagging", sharp, or abrupt surface constituting an unwarranted hazard to a pedestrian. Each bus body shall be constructed so as to preclude road splash, road dust, or the bus engine's fumes or gas entering either the driver, passenger, or service entrance space through any joint, crack, hole, or opening other than an opened door or window. In addition, various portions of the bus body shall conform to the requirements set forth under the following paragraphs.

- a) Aisle. An aisle, easily negotiated ("easily negotiated" means that an aisle meets the dimension requirements set forth in this subsection from front of bus to back of bus) and free of tripping hazards ("tripping hazards" are tears, wrinkles and other

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

imperfections in the floor covering material, or the floor itself causing the walking surface to be uneven), shall extend from the forward edge of the service entrance stairway to the emergency door in the rear of the bus or, when such door is absent, to the forward edge of the rearmost seat. This aisle shall be no less than 305 mm (12") wide at every location between floor covering and the top of each seat cushion and, in a bus manufactured in July 1987 or later, shall be no less than 380 mm (15") wide at and above a level 50 mm (2") below the top of any seat back on a non-handicapped student's seat. At least 1.75m (68.9") floor-to-ceiling height shall be provided above the entire required width of this aisle between the forward edge of the rearmost seat and the forward edge of the service entrance stairway.

b) Battery. Either one battery or two or more suitably connected batteries may be installed.

1) When rated in conformance with SAE Standard J537h the battery(s) shall provide a current flow for engine cranking no less than the engine manufacturer's recommended Cold Cranking Current (amperes for 30 seconds) at -180° C (0° F) or, at the purchaser's option, at -250° C (-200° F).

2) When rated in conformance with SAE Standard J537h the battery(s) shall provide a Reserve Capacity (duration of 25 ampere current flow) at 270° C (800° F) no less than 135 minutes.

Agency Note: If the purchaser needs to provide for extended cold weather bus operation immediately after malfunction or failure of the battery charging equipment he should specify battery reserve capacity, and temperature, commensurate with the temperature and duration of extended operation needed.

c) Battery Carrier. When the battery is mounted outside the engine compartment it shall be attached securely in a closed, weather-tight, and vented compartment that is located and arranged so as to provide for convenient routine servicing. The battery compartment door, or cover, shall be secured by an adequate manually operated latch(es) or other fastener(s). Each electrical cable connecting the battery(s) in this carrier to the body or chassis shall be one-piece between the battery terminal connector and the first body or chassis terminal connector.

d) Bumper, Rear. The rear bumper shall be of channel type cross section with the top edge at least 225 mm (8.9") above the bottom

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

edge, shall be formed from rolled steel at least 4.55 mm (.18") thick, and shall wrap around the rear corners of the body to a point at least 300 mm (11.8") forward of the rearmost point of the body at floor line. The rear bumper shall be attached to the chassis frame with provisions for removal of hitching-to or riding available hand tools and the prevention of hitching-to or riding thereon. The rear bumper shall be of sufficient strength to permit the bus being pushed by another vehicle without permanent distortion.

e) Capacity, Passenger. THE RATED PASSENGER CAPACITY OF THE BUS SHALL BE THE SAME AS THE NUMBER OF 330 MM (13") WIDE PROTECTED, CONVALESCENT, OR HANDICAPPED PASSENGER SEATING SPACES EITHER INSTALLED OR PROVIDED FOR IN THE BUS (Ill. Rev. Stat. 1989, ch. 95 1/2, par. 12-802). Examples: A seat 990 mm (39") in width provides 3 passenger spaces; A seat 985 mm (38.8") in width provides 2 passenger spaces; A device resembling a seat but less than 330 mm (13") in width would not provide a passenger space. Neither a space not conforming to FMVSS 222 nor the driver's space shall be counted as a passenger space, except that any suitable space for transporting a convalescent or handicapped passenger shall be counted as a passenger space when computing passenger capacity.

f) Certificate and Registration Card Holder. At least 1 card holder with a transparent face no less than 150 mm by 100 mm (5.9" by 3.9") shall be securely affixed to the inside header panel out of the students' easy reach.

g) Color and Paint, Exterior. Except where otherwise specified, or allowed, the exterior of the bus shall be National School Bus Chrome Yellow (Federal Standard No. 595a, glossy chrome yellow enamel No. 13432).

1) Bumpers, wheels, rub rails, and body trim (if used) shall be black (Federal Standard No. 595a, glossy black enamel No. 170381).

2) Hood top may be either lusterless black, (595a, 37038) or lusterless chrome yellow.

Agency Note: To be certain of glare reduction, a purchaser should specify a lusterless paint.

3) Cowl top may be same finish as hood top.

4) Hub caps (if supplied) and those grilles located forward of

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

440.420(t), below. The fire extinguisher shall be of a type approved by the Underwriters' Laboratories, Inc., with a rating not less than 10-BC. The operating mechanism shall be sealed with a type of seal that will not interfere with the use of the fire extinguisher.

Agency Note: At least one fire extinguisher MUST be carried in each school bus transporting pupils but the purchaser may elect to install an extinguisher he owns which conforms to the above requirement.

k) First-Aid Kit (Optional).

- 1) The first-aid kit, if installed in the bus, shall be readily identifiable and readily accessible to the driver. If this kit is not to be carried in the locked compartment authorized under Section 440.420(t), below, it must be in view of the driver.

Agency Note: A first-aid kit MUST be carried in each school bus transporting pupils but the purchaser may elect to install a kit he owns which conforms to Section 440.420(k)(2), below, except longer lengths and fewer packages of bandage may be used.

- 2) The first-aid kit shall conform to Section 393.96(c) of the Federal Motor Carrier Safety Regulations in Title 49 of the Code of Federal Regulations (49 CFR 393.96) except the contents, which shall be as shown in 440. Appendix B, q.v.

1) Floor Covering.

- 1) All portions of the floor that come in contact with passengers' or driver's footwear shall be covered with a waterproof material. This floor covering shall not crack when subjected to sudden temperature change and shall be bonded securely to the floor with a waterproof substance. All seams and openings shall be filled with a waterproof sealer.

- 2) The floor covering in the aisles and entrance area shall be of ribbed, non-skid, wear-resistance type material commonly used in commercial passenger transportation vehicles.

- m) Fuel System. Neither a fuel tank nor a fuel tube, pipe, or hose, may be installed within 300 mm (11.8") of the left exterior surface of a bus with GVWR 10,000 pounds, or less, unless such tank, tube, pipe, or hose either is located wholly inboard the

the engine may be a bright or light finish such as chrome, aluminum, white, etc.

- h) Defrosters. Defrosting equipment shall be installed so as to help keep the window to the left of the driver and the glass in the service door clear of fog or frost. This defrosting equipment shall conform to those FMVSS 103 performance requirements that are applicable to school bus windshields.

- i) Emergency Exits. The following requirements apply to emergency exit doors and emergency exit windows.

- 1) A black arrow, curved or straight, at least 150 mm (5.9") in length and 15 mm (.6") in width, showing the direction each outside emergency exit release mechanism is to be moved to open the emergency exit, shall be painted or permanently affixed on the outside yellow portion of the bus within 150 mm (5.9") of each release mechanism.

- 2) An arrow showing the direction each inside emergency exit release mechanism is to be moved to open the emergency exit shall be painted or permanently affixed inside the bus within 150 mm (5.9") of each emergency exit release mechanism. Each inside arrow shall contrast with its background and, where suitable space is limited, may be smaller than the outside arrow(s) but must be conspicuous.

- 3) An audible and visible alarm shall be provided which will alert the driver when the engine is running and an emergency exit is locked and cannot be opened quickly and solely by operating the inside or outside emergency exit release mechanism(s) in accordance with the arrow(s) and instruction provided adjacent to the release mechanism(s).

- 4) An audible and visible alarm shall be provided which will alert the driver when the engine is running and either an emergency exit window, located within 460 mm (18.1") of the seating surface of a passenger seat, or an emergency exit door is released; i.e., "unlatched".

- 5) An alarm disconnect, "squench control", or other alarm defeating or attenuating device shall not be installed.

- j) Fire extinguisher (Optional). The fire extinguisher, if installed in the bus, shall be of the dry chemical type, with pressure gauge, mounted in a quick-release bracket of automotive type located in view of and readily accessible to the driver, except when carried in the locked compartment authorized under Section

left of the chassis frame (or equivalent structural member) or is installed in a bus conforming to S6.2, S6.3, and S6.4 in FMVSS 301-75 (49 CFR 571.301-75). A bus with GVWR 10,000 pounds, or less, constructed of an incomplete vehicle manufactured before September 1, 1977, shall be deemed not conforming to S6.2, S6.3, and S6.4 in FMVSS 301-75 unless the label required under Section 440.310, states the bus (vehicle) conforms to FMVSS in effect September 1977 (9/77) or the manufacturer furnishes a separate certification which states the bus conforms to S6.2, S6.3, and S6.4 in FMVSS 301-75. This separate certification shall be lettered and affixed in the same manner and location as the label required in Section 440.320.

n) Glazing Materials.

- 1) A) Laminated safety glass is optional on Type I school buses. All applicable provisions of FMVSS 205 apply to the optional laminated safety glass and also to any plastic material(s) used in multiple-glazed unit, including meeting the pertinent tests indicated below, which are specified in ANSI Standard Z26.1-1966 (R 1973), Z26.1a-1969, and are grouped in Table No. 1 of that Standard. Glazing shall be identified as shown below.

Glazing installed in:	Shall meet tests grouped in Z26.1 Table No. 1 under:	Shall bear one of the following identification markings:
Windshield	Item 1, either laminated glass or multiple glazed unit;	AS 1 Glass;
Window or door forward of rear-most location of driver's seat back	Item 1 or 2, either laminated glass or multiple glazed unit;	AS 1 Glass or AS 2 Glass;
All Other locations	Item 1, 2 or 3, either laminated glass or multiple glazed unit.	AS 1 Glass, or AS 2 Glass, or AS 3 Glass.

- B) In addition, any exposed plastic layer of a multiple glazed unit shall be identified in conformance with FMVSS 205.
- 2) All glazing shall be installed so the identification markings are legible.
- o) Heaters.
 - 1) An inside temperature of not less than 10 degrees Celsius (50° F) shall be maintained throughout the bus while the bus is moving at 75 kilometers per hour (46.6 miles per hour) in calm air at the average minimum January temperature, as established by the Weather Bureau, U.S. Department of Commerce, for the area in which the bus is to be operated.

- 2) Each heater shall bear a nameplate which shall identify the heater manufacturer and state the heater capacity rating when tested as recommended in SAE Recommended Practice J638, or when tested in accordance with other nationally recognized standard or code. The recommended practice, standard, or code under which the heater is rated shall be identified on the nameplate. Such nameplate shall constitute certification by the heater manufacturer that the heater performance is as shown on the plate.

- 3) Heater hoses shall be supported so as to prevent wear due to vibration. The hoses shall not dangle or rub against the chassis or sharp edges and shall neither interfere with nor restrict the operation of any engine function (such as an emission or ignition control mechanism). Heater hoses shall be protected or baffled between the point at which they enter the passenger compartment and the point of attachment to the heater so that, in the event of hose rupture or disconnection, passengers and/or driver will not be subject to hot water burns.

- p) Heater Hose Connections at Engine. Each heater hose connection to the engine shall include a shutoff valve located as close to the engine as practical. Such connection and valve shall not interfere with any engine function whether closed, partially open, or fully open, with heater hoses installed properly.

q) Interior.

- 1) Thermal and acoustic material(s) shall be installed in the

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

ceiling and the sides of the body to reduce heat transfer and the interior noise level.

- 2) The passenger compartment of the bus, including the ceiling, shall be free of any visible or concealed projections likely to cause injury. Exposed lapped joints shall be connected and/or treated to reduce likelihood of injury from exposed edges. Materials or components in the passenger compartment shall be free of any sharp corner or projections or shall be padded so as to make injury unlikely.

r) Lamps and Signals.

- 1) For informational purposes, pertinent requirements established by certain statutes and rules follow.
 - A) WHENEVER A SCHOOL BUS IS OPERATED FOR THE PURPOSE OF TRANSPORTING PASSENGERS OTHER THAN PERSONS IN CONNECTION WITH AN ACTIVITY OF THE SCHOOL OR RELIGIOUS ORGANIZATION WHICH OWNS THE SCHOOL BUS OR FOR WHICH THE SCHOOL BUS IS OPERATED, THE ... SIGNAL ARM AND FLASHING SIGNAL SYSTEM SHALL NOT BE OPERABLE THROUGH NORMAL CONTROLS. (Ill. Rev. Stat. 1989, ch. 95 1/2, par. 12-806)

- B)
 - i) (Not pertinent)
 - ii) THE STOP SIGNAL ARM ... SHALL BE EXTENDED AFTER THE SCHOOL BUS HAS COME TO A COMPLETE STOP FOR THE PURPOSE OF LOADING OR DISCHARGING PUPILS AND SHALL BE CLOSED BEFORE STARTING OUT AGAIN. THE STOP SIGNAL ARM SHALL NOT BE EXTENDED AT ANY OTHER TIME.

- iii) THE ALTERNATELY FLASHING RED SIGNAL LAMPS ... SHALL BE ACTUATED AFTER THE SCHOOL BUS HAS COME TO A COMPLETE STOP FOR THE PURPOSE OF LOADING OR DISCHARGING PUPILS AND SHALL BE TURNED OFF BEFORE STARTING OUT AGAIN. THE RED SIGNAL LAMPS SHALL NOT BE ACTUATED AT ANY OTHER TIME.

- iv) THE ALTERNATELY FLASHING AMBER SIGNAL LAMPS ... SHALL BE ACTUATED CONTINUOUSLY DURING NOT LESS THAN THE LAST 100 FEET TRAVELED BY THE BUS BEFORE STOPPING FOR THE PURPOSE OF LOADING OR DISCHARGING PUPILS WITHIN A BUSINESS OR

RESIDENTIAL DISTRICT AND DURING NOT LESS THAN THE LAST 200 FEET TRAVELED BY THE BUS OUTSIDE A BUSINESS OR RESIDENTIAL DISTRICT. THE AMBER SIGNAL LAMPS SHALL REMAIN ACTUATED UNTIL THE BUS IS STOPPED. THE AMBER SIGNAL LAMPS SHALL NOT BE ACTUATED AT ANY OTHER TIME. (Ill. Rev. Stat. 1989, ch. 95 1/2, par. 11-1414)

- C) THE DRIVER OF A SCHOOL BUS CARRYING ANY SCHOOL CHILD IS REQUIRED TO STOP, LISTEN, AND LOOK BEFORE CROSSING ANY RAILROAD, EXCEPT WHERE CERTAIN TRAFFIC CONTROLS ARE PRESENT. (Ill. Rev. Stat. 1989, ch. 95 1/2, par. 11-1202) However, the State's Rules and Regulations For Operating A School Bus (which are enforced in conjunction with State-aid for public pupil transportation operations) require such driver to stop at railroad crossings (no exceptions), open door to the right, listen, and look in both directions before crossing.

- 2) Alternately Flashing Signal Lamps. Each bus shall be equipped with an 8 lamp alternately flashing signal system that conforms to S4.1.4.(b) of FMVSS 108 (49 CFR 571.108) and provides for compliance with the Illinois Statutes and quoted above. A separate circuit breaker and a master switch shall be provided for this signal system. When in its "off" position, this master switch shall prevent operation of the 8 lamp system; shall prevent operation of any lamps mounted on the stop signal arm required under Section 440.420(ff); and shall prevent operation of any electrically controlled mechanism that would cause the stop signal arm to extend. The controls for the 8 lamp flashing signals, the stop signal arm, and the service entrance door shall be arranged so as to provide for the following sequence of operations while the engine is running:
 - A) Place the alternately flashing signal system master switch in its "off" position. Close and secure the service entrance door. Actuate the alternately flashing signal system hand or foot control. The alternately flashing signal lamps of either yellow (amber) or red color shall not go on.
 - B) With the master switch "off" and the hand or foot control actuated, open the service door. The alternately flashing signals of either color shall not go on and the stop signal arm shall not extend.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- C) Deactivate the hand or foot control. Place the alternately flashing signal system master switch in its "on" position. Close and secure the service door. Then open the service door. The alternately flashing signal lamps of either color shall not go on and the stop signal arm shall not extend.
- D) Close and secure the service door. Actuate the alternately flashing signal system by hand or foot control. A yellow pilot lamp in the view of the driver and the yellow alternately flashing signals shall go on.
- E) Desecure but do not open the service door. The yellow pilot and the yellow alternately flashing signals shall go off. A red pilot lamp in the view of the driver and the red alternately flashing signals shall go on. The stop signal arm shall extend.
- F) Fully open the service door. The red pilot and red signals shall remain on and the stop arm shall remain extended.
- G) Close but do not secure the service door. The red pilot and red signals shall remain on and the stop arm shall remain extended.
- H) Open the service door. The red pilot and red signals shall remain on and the stop arm shall remain extended.
- I) Close and secure the service door. The red pilot and red signals shall go off and the stop arm shall retract.
- J) Open the service door. Alternately flashing signals of either color shall not go on and the stop arm shall not extend.
- 3) Rear Turn Signals. Yellow turn signal lamps shall be mounted on the rear as far apart as practical and as high as practical but below the rear window. The effective projected illuminated area of these turn signal lamps shall be no less than required for the yellow alternately flashing signal lamps required under Section 440.420(r)(2), above; i.e., .0122 m² (19in.²).

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 4) Stop Signals. Red stop lamps shall be mounted on the rear as far apart as practical but closer to the vertical centerline of the bus than the rear turn signal lamps required under Section 440.420(r)(3), and at the same height as those turn signal lamps. The effective projected illuminated area of these stop lamps shall be no less than required for the red alternately flashing signal lamps required under Section 440.420(r)(2); i.e., .0122 m² (19in.²).
- 5) Side Turn Signals. Two yellow side turn signal lamps conforming to SAE Recommended Practice J914a, August 1973, shall be installed on each bus of more than 32 passenger seating capacity. Except as indicated below, this Recommended Practice shall be read as setting forth mandatory requirements. The lamps shall be "armored" and mounted on the body between the rub rails required under Section 440.420(z). The right lamp shall be within 1 m (39.4") of the rear of the service entrance but, on a forward control bus, not forward of the front axle. The left lamp shall be approximately the same distance from the front bumper as the right lamp.
- 6) Interior Lighting. At least the white nosings of the service entrance steps (Section 440.420(cc)(3)(7)), the floor around the stepwell, the entire aisle, and each emergency door and emergency exit shall be illuminated by lamp(s) emitting a white light. At least 2 interior illumination lamps shall be installed in a bus that provides 330 mm (13") of seating width for each of 33 or more passengers. At least the nosings of the service entrance steps and the floor around the stepwell shall be illuminated automatically by opening of the service door. No lamp shall be installed at or near the eye level of a pupil moving through the service entranceway to the aisle unless such lamp does not shine directly into the eye(s) of any such pupil.
- s) Lettering.
- 1) General. Except where otherwise required or allowed, lettering on the outside of the body shall be black against a National School Bus Chrome Yellow background. All required letters and numerals shall conform to Series "B", or heavier series, of the Standard Alphabets for Highway Signs issued by the Federal Highway Administration, Washington, D.C. 20591. Decals may be used instead of paint. Signs, numbers, or letterings, other than those

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

either required by statutes or required or permitted by these standards shall not be affixed permanently on either the outside of the bus or the inside of glazing so as to be visible to the outside. Inside lettering shall contrast with its background.

- 2) The words "SCHOOL BUS" shall be displayed against a National School Bus Chrome Yellow background as high as practical and approximately centered on the front and rear of the bus body, in letters at least 200 mm (8") high. These words may be painted on or applied to the bus body or displayed on a sign firmly attached to or built into the body. The background of an illuminated sign shall approximate the National School Bus Chrome Yellow color as closely as feasible.

- 3) A school bus identification number, supplied by the purchaser, shall be displayed as high as practical on the front and rear of the bus in numerals not less than 100 mm (4") high. Such number may be displayed on the sides of the bus as specified by the purchaser.

- 4) The name of the bus owner and/or the entity (such as school authority) for which the bus is operated shall be displayed on the right and left sides of the body, approximately centered and as high as practical below the window line, in letters at least 100 mm (4") high.

- 5) The body and/or chassis manufacturer's name, emblem, or other identification may be displayed, colorless or in any color, on any unglazed surface of the bus so as not to be mistaken for the name required in Section 440.420(a)(4), and so as not to interfere with any required letters or numerals.

- 6) The words "EMPTY WEIGHT", or the abbreviation "EMPTY WT.", or the letters "E.W.", followed by the empty weight of the bus (Section 440.220), stated in pounds and newtons, shall be displayed on the outside of the body near the rear edge of the service entrance in numerals and letters at least 50 mm (2") high.

Examples: EMPTY WEIGHT 16,800 lb E.W. 16,800 lb
 74,730 N 74,730N

Agency Note: While undergoing a safety test (as required in Section 13-101 of the IVC) the bus must generate a braking force equal to at least 60 percent of its empty weight. The

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

SI empty weight (force of gravity---N) corresponds to the U.S. customary empty weight (force of gravity---lb) used when computing the minimum braking force to be generated.

- 7) The word "CAPACITY", or the abbreviation "CAP.", and the rated passenger capacity (Section 440.420(e) above) followed by the word "PASSENGERS", or the abbreviation "PASS.", shall be displayed on the outside of the body near the rear edge of the service entranceway, and on the inside above the right portion of the windshield, in numerals and letters at least 50 mm (2") high.

- 8) The words "NO STANDEES" shall be displayed inside above the windshield, approximately opposite the aisle but to the right of the mirror and sun visor, in letters at least 50 mm (2") high.

- 9) The words "EMERGENCY DOOR" or "EMERGENCY EXIT" may be displayed, inside or outside the bus, on a separate colorless background (such as white, aluminum, or silver) that extends no more than 15 mm (.6") above or below the words and no more than 25 mm (1") to the right or left of the words. The words "NO STANDEES" and/or the capacity (Section 440.420[s][7]) may be so displayed on the inside only.

- t) Locked Compartment (Optional). If specified by the purchaser, a lockable compartment may be installed for storage of fire extinguisher, first-aid kit, warning devices, wheel chocks, or other items.

- 1) The compartment locking device shall be connected with an automatic audible and visible alarm that will alert the driver when the engine is running and the compartment is locked. No alarm disconnect, "squench control", or other alarm defeating mechanism shall be installed.

- 2) A red cross, formed of 5 equal squares, and the words "FIRST-AID KIT" shall be displayed on the compartment door, or cover, if the first-aid kit is to be carried in the locked compartment.

- 3) The words "FIRE EXTINGUISHER" shall be displayed on the compartment door, or cover, if the fire extinguisher is to be carried in the locked compartment.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

u) Metal Treatment.

- 1) Unless excluded below, all steel or iron used in construction of the bus body and attached equipment shall be either resistant to atmospheric corrosion, or zinc coated, or treated by equivalent process. Particular attention shall be given to each fastener or attaching device, lapped surface, welded connection or fastening, cut edge, punched or drilled hole, surface subjected to abrasion, closed or box section, and any unvented or undrained area or space. The number of unvented or undrained areas or spaces is to be minimized. Excluded are door handles, grab handles, and interior decorative parts.

- 2) As evidence that above requirements have been met, a sample of fastener, material, or section of body, coated or finished as installed in the bus, when subjected to a 1,000-hour salt spray test in accordance with Standard ANSI Z118.1-1974 "Method of Salt Spray (Fog) Testing" (ASTM B 117-73) shall not exhibit more than 10 percent reduction in weight after all adherent corrosion products are removed.

v) Mirrors. Mirrors located inside or outside the bus shall be firmly supported, shall be adjustable, and shall afford the seated driver a clear, stable, reflected view.

- 1) At least one interior mirror shall be installed so as to afford the seated driver a view of the bus interior as well as portions of the roadway to the rear of the bus. The mirror(s) shall be of clear glass, shall have an overall reflecting surface at least 150 mm (5.9") by 760 mm (29.9"), and shall be framed, with rounded corners and padded edges.
- 2) An outside convex mirror shall be installed on the right side so as to afford the seated driver a reflected view of the roadway along the right side of the bus from at least the rearmost surface of the rear bumper to at least the forwardmost surface of the right front tire. The projected reflecting area of this convex mirror shall be no less than .028 m² (43.4 in.²).
- 3) An outside convex mirror shall be installed on the left side so as to afford the seated driver a reflected view of the roadway along the left side of the bus from at least the rearmost surface of the rear bumper to at least the front edge of the driver's seat in its most forward position.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 4) If any seated driver of a forward control bus does not have a view of the front bumper and the roadway in front of the bus, a convex mirror shall be installed so as to afford such seated driver a reflected view of the front bumper and the roadway in front of the bus.

Agency Note: FMVSS 111 requires a crossview mirror on "conventional" school buses but not on forward control buses.

- 5) More convex mirrors than required above may be installed, if specified by the purchaser.

- 6) Each convex mirror shall be mounted so as not to reduce the rectangular reflecting area of any flat outside mirror below .0323 m² (50 in.²).

- 7) The average radius of curvature of each convex mirror shall be as long as practical, so as to provide for the required or desired view with as little distortion as feasible.

- 8) The reflecting surface on the back of each mirror shall be protected from abrasion, scratching, and atmospheric corrosion.

w) Mounting of Body. This subsection does not apply to an integral type bus.

- 1) After the date of manufacture of the incomplete vehicle the chassis frame shall not be altered so as to extend the wheelbase. Other extension(s) of the chassis frame may be accomplished only by the incomplete vehicle, intermediate, or final-stage manufacturer or by an agent of such manufacturer properly instructed and authorized by such manufacturer to make such extension(s).

- 2) Insulating material shall be placed at all mounting points between the body and chassis frame. This material shall be at least 5 mm (.2") thick, may have the quality of the sidewall of an automobile tire, and shall be so secured that it will not move, vibrate, or "crawl" out of place during normal operations.

- 3) The body front shall be attached and sealed to the chassis cowl so as to prevent the entry of water, dust, or fumes through the joint between the chassis cowl and the body.

x) Rack, Book. Not permissible.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- y) Reflectors, Front. ~~The-440-Section-12-202-requires TWO YELLOW (AMBER) REFLECTORS ARE REQUIRED TO BE INSTALLED SO AS TO INDICATE EITHER OR BOTH OF THE OUTER EDGES OF THE BUS TO A DRIVER APPROACHING THE FRONT OF THE UNLIGHTED BUS BETWEEN SUNSET AND SUNRISE.~~ (Ill. Rev. Stat. 1989, ch. 95 1/2, par. 12-202)

- 1) Two yellow front reflectors, either prismatic or sheet (tape), shall be installed between 380 mm and 1525mm (15" & 60") above the roadway on either the fenders, the cowl, or the body as far apart as practical but with no part of the reflecting surface more than 300 mm (11.8") inboard of the maximum width of the bus at and including the rub rails required under Section 440.420(z), below.
- 2) A prismatic reflex reflector, if installed, shall meet the performance requirements of FMVSS 108 and be installed with its front face essentially vertical and facing no more than 11.3 degrees outboard of forward.
- 3) Sheet or tape, if installed, shall be of reflex reflective material conforming to the specification in 440.420(z). The forward projected area of such reflector shall be no less than .005 m² (8 in.²).

z) Rub Rails.

- 1) Rub rails of longitudinally corrugated or ribbed steel at least 100 mm (3.9") wide shall be fixed on the outside of the bus.
- 2) There shall be one rub rail located approximately at seat level which shall extend from the rear of the service entrance completely around the bus body without interruption, except at a rear emergency door or a rear compartment, to a point of curvature near the front of the body on the left side.
- 3) There shall be one rub rail on each side located approximately at floor line which shall extend over the same longitudinal distance as the rub rail required under Section 440.420(z)(2), above, except:
 - A) This rub rail need not extend across a wheel housing, and
 - B) This rub rail may terminate at the radii of the right and left rear corners of the body.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 4) Each rub rail required above shall be fastened to the bus body so as to attain at least 60 percent of the tensile strength of the weakest joined material, when strained in a direction parallel to the length of the rub rail.
- 5) Each joint in a rub rail required above shall be constructed so as to attain at least 60 percent of the tensile strength of a jointless length of rub rail, when strained in a direction parallel to the length of the rub rail.
- 6) More than 2 rub rails may be installed on a side and/or the rear of a bus.

aa) Seating. Each seat and each barrier are required to conform to Federal Motor Vehicle Safety Standards (FMVSS). See Section 440.10 and 440.420(z).

- 1) Seat, Driver's. The driver's seat shall be rigidly positioned, and shall afford both vertical and fore-and-aft adjustments of not less than 100 mm (3.9"), without the use of a tool or other non-attached device. The shortest distance between the steering wheel and the back rest of the operator's seat shall be no less than 280 mm (11").

- 2) Seats, Students'. In a bus manufactured in July 1987 or later:

A) Each non-handicapped student's seat shall be constructed so that the shortest straight-line distance from top of seat back to empty seat cushion is 28" when measured near the transverse center of the seat at the front of the seat back and along the angle of rearward inclination of the seat back. Since the height of a seat back is difficult to measure precisely on a repeatable basis, a measurement of 27.5" or more is deemed acceptable.

B) Each non-handicapped student's seat shall be forward facing.

- 3) Barriers, Students'. In a bus manufactured in January 1988 or later, the vertical distance from the floor covering to the top of a barrier positioned in front of a student's seat (as required by FMVSS, [see 440.420(z)(2)]) shall measure not less than the vertical distance from the floor covering to the top of the seat back on the non-handicapped student's seat installed behind that barrier.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 4) In the case of a seat to be occupied by a handicapped student, the seat back, forward facing, and barrier requirements of subsections (aa)(2) and (3) shall be changed only as necessary to meet the needs of the handicapped student (e.g., seat missing to accommodate wheelchair, hard surfaced stretcher installed to accommodate child who is not capable of sitting in an upright position).

bb) Seatbelt(s), Driver's. Each driver's seatbelt assembly shall be arranged so that all portions of the assembly remain above the floor when not in use. Any retractor(s) installed shall be of the automatic locking type.

cc) Service Entrance and Door.

- 1) The service entrance shall be located on the right side near the front, in unobstructed and convenient view of the driver. The service entrance shall have a minimum vertical opening of 1.7 m (67") and a minimum horizontal opening of 610 mm (24").

- 2) A steel grab handle not less than 250 mm (9.8") in length shall be firmly attached in an unobstructed location inside the entrance way.

- 3) The bottom step in the entranceway shall not extend beyond the outside of the body. With all seats empty, the bottom step shall be not less than 300 mm (11.8") and not more than 400 mm (15.7") from the roadway. At least 2 steps shall be provided. The steps shall be enclosed. Risers shall be approximately equal. Each step, including the floor at the top riser, shall be surfaced with a nonskid material with a 40 mm (1.6") to 80 mm (3.1") white nosing as an integral piece.

- 4) The service door shall be either manually or power operated by the seated driver. When in the closed and secured position, the door operating mechanism shall prevent accidental opening but shall afford prompt release and opening by the driver. No exposed parts of a door operating mechanism shall come together so as to shear or crush finger(s). The vertical closing edge(s) of a service door shall be padded to lessen chance of injury.

- 5) A power operated door shall be equipped for emergency manual operation in case of power failure. Instructions for emergency operation of a power operated door shall be

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

affixed permanently on the inside of the door in letters at least 12 mm (.5") high.

- 6) A single-section service door shall be hinged at the front of the service entrance.

- 7) Glazed panels shall be installed in the service door to afford the driver a view of small children outside the door, traffic signs, and intersecting roadways. The bottom of the lowest glazed panel(s) in the door shall be no higher than 900 mm (35.4") from the roadway when all seats are empty. The top of the upper glazed panel(s) shall be no more than 150 mm (5.9") below the top of the door.

- 8) Service Door Lock (Optional). If ordered by the purchaser, a lock may be installed on or at the service door. Any type service door locking system installed in the bus shall conform to at least one of the following requirements.

- A) Requirement 1: A locking system shall not be capable of preventing the seated bus driver from easily and quickly opening the service door.

- B) Requirement 2: A locking system that is capable of preventing the seated bus driver from easily and quickly opening the service door shall include an audible and visible alarm to alert the driver when the engine is running and the service door is locked. No alarm disconnect, "squelch control", or other alarm defeating or attenuating device shall be installed.

- C) Requirement 3: A locking system shall not be capable of preventing the seated bus driver from easily and quickly opening the service door except when, and only when, a person outside the bus uses a key that is not capable of locking more than one of at least 1000 of the door manufacturer's key locking systems.

- dd) Steering Wheel Clearance. The rim grip of the steering wheel shall have at least 50 mm (2") clearance in all directions, except at the spokes.

- ee) Steps, Body Front. On each side at the front of the body at least one grab handle and recessed foothold or folding stirrup step shall be installed so as to provide easy access to the windshield for cleaning purposes.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

ff) Stop Signal Arm.

- 1) Section 12-803-of-the-IVG-provides-that--"---EACH SCHOOL BUS SHALL BE EQUIPPED WITH A STOP SIGNAL ARM ON THE DRIVER'S SIDE OF THE SCHOOL BUS WHICH MAY BE OPERATED EITHER MANUALLY OR MECHANICALLY.

A) FOR ANY SCHOOL BUS WITH A MODEL YEAR PRIOR TO 1984, THE ARM SHALL BE A HEXAGON SHAPED SEMAPHORE APPROXIMATELY 18 INCHES WIDE AND 18 INCHES LONG AND OF 16-GAUGE METAL. "STOP" SHALL BE PAINTED ON BOTH SIDES IN WHITE LETTERS AT LEAST SIX INCHES HIGH WITH A BRUSH STROKE APPROXIMATELY 7/8 INCH WIDE AND ON A RED BACKGROUND APPROXIMATELY EIGHT INCHES X 16 INCHES. DECALS MAY BE USED INSTEAD OF PAINTING. THE REMAINING AREA OF THE STOP SIGNAL ARM SHALL BE PAINTED WHITE AND SHALL EITHER BE REFLECTORIZED OR SHALL HAVE TWO DOUBLE FACED LAMPS WITH PLAIN, RED LENS APPROXIMATELY FOUR INCHES IN DIAMETER LOCATED ONE AT THE TOPMOST AND ONE AT THE BOTTOMMOST POSITION OF THE ARM. SUCH LAMPS SHALL LIGHT AND FLASH WHEN THE ARM IS EXTENDED AND SHALL TURN OFF AND STOP FLASHING WHEN THE ARM IS CLOSED. (Ill. Rev. Stat. 1989, ch. 95 1/2, par. 12-803)

B) For any school bus with a model year after 1983 but manufactured prior to September 1, 1992, the arm can either be a hexagon or an octagon shaped semaphore. The arm must conform to all other provisions listed in subsection (ff)(1)(A).

C) For any school bus manufactured on and after September 1, 1992, the arm must be an octagon shaped semaphore which conforms to 49 CFR 571.131 (56 FR 20363, May 3, 1991). No later amendments to or editions of 49 CFR 571.131 are incorporated.

- 2) "Operated ... mechanically" shall be interpreted to include power operation. Also, "16-gauge metal" shall be interpreted to include thicker metal and any nonmetallic material equivalent or superior to hot rolled 16-gauge mild steel in stiffness, corrosion resistance, and durability.

- 3) The figure in illustration A depicts one shape of arm that conforms to Section 12-803, IVG-Section 440. Illustration

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

A depicts the hexagon shaped semaphore referenced in subsection (ff)(1)(A). Section 440. Illustration B depicts the octagon shaped semaphore referenced in subsection (ff)(1)(C).

- 4) When demonstrating conformance with signal operating requirements by performing the sequence of operations specified under Section 440.420(r)(2), the driver, or operator, may employ any independent or manual operation or disconnection of the stop signal arm that is provided for convenient use by the seated driver without using any type of tool and without removing any unattached part.

gg) Storage Compartment(s) (Optional).

- 1) If installed, the storage compartment(s) shall be fire-resistant and of adequate strength and capacity for the storage of the items to be carried, such as tire chains, tow chains, tools for roadside or minor repairs, school activity equipment, etc. The compartment(s) shall provide reasonable security for the contents and shall be constructed and installed so as to preclude passenger injury due to the compartment(s) or the contents becoming dislodged when the bus is subjected to the maximum possible braking force and to minimize chances of such injury when the bus is subjected to a collision impact.

- 2) If a relatively small storage compartment is located inside the passenger compartment, seat cushion(s) alone may not serve as the cover for the compartment.

hh) Sun Visor. An interior, adjustable, transparent, tinted sun visor not less than 150 mm (5.9") high by 760 mm (29.9") wide shall be so installed that it can be turned up and will remain up when not in use. It may be supported so that it can be moved for use on the driver's left, but when used in front of the driver and in a position approximately parallel to the windshield it shall be supported at or near each of its ends so as to minimize its vibration.

ii) Tow Hook, Rear (Optional). Any tow hook(s) installed on the rear shall be attached or braced to the chassis frame, or to an equivalent structural member of an integral type bus. A tow hook may not extend beyond the rear face of the rear bumper.

jj) Undercoating. The underside of the body, including floor members and the side panels below the floor, shall be coated with a

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

fire-resistant undercoating material applied by the spray method so as to seal, insulate, reduce corrosion, and reduce interior noise. Non-metallic components need not be coated.

kk) Ventilation. The body shall be equipped with a controlled ventilation system of sufficient capacity to maintain a satisfactory ratio of outside air under cool and cold operating conditions without opening of windows. With a powered ventilation system, air outlet openings shall be located, sized, and manufactured so that, with doors and windows closed, a positive pressure is maintained in the driver and passenger spaces, to lessen chances of dangerous gas entering such spaces. Fresh air inlet(s) shall be located so as to minimize entrance of either dangerous engine gas or obnoxious engine fumes.

ll) Warning Devices (Optional). Emergency warning devices supplied with the bus shall consist of 3 bi-directional, fluorescent-reflective, day-night, triangular warning devices that conform to FMVSS 125.

Agency Note: A school bus must carry warning devices when on the public roads, but the bus purchaser may elect to install his older, used, warning devices that are in serviceable condition and that conform to Section 12-702 of IVC, and to school bus safety test requirements.

mm) Weight Distribution and Gross Weight. Storage or cargo spaces, if installed, and seats shall be located so that when the bus is fully loaded as specified or advertised by the manufacturer the loads exerted on the roadway will exceed neither a tire load rating, nor a gross axle weight rating, nor the gross vehicle weight rating indicated by the data displayed on the label permanently affixed in compliance with Section 440.310.

nn) Wheel Housings.

1) Each wheel housing opening shall allow for unimpeded wheel and tire service or removal.

2) Each rear wheel housing shall provide the clearance recommended in SAE Information Report J683a, July 1966, for installation and use of tire chains on the dual or single tires installed on the rear wheels.

oo) Windows or Glazed Panels, Rear. Glazed panels, or windows, shall be installed in the rear of the bus so as to afford the seated driver a reflected view through the rear of the bus as wide and as

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

high as practical without unduly weakening or increasing the cost of the body structure. Such view shall be as low as allowed by the back(s) of the rear seat(s) except that, when the aisle required under Section 440.420(a), extends to a rear emergency door, an additional lower glazed panel shall be installed to afford the driver an additional view through such panel at least the width of the required aisle and as low and high as practical. Any authorized or required sign(s), letters, or numerals displayed on the glazing in the rear of the bus shall be wholly located at least 1.12 m (44.1") above the floor; provided, however, the glazing identification markings required under Section 440.420(n)(2), may be displayed at lower levels.

pp) Window Openings, Side. The following subparagraphs do not apply to a window or glazed panel installed forward of a front passenger seat, and are optional for a window installed either beside a rear passenger seat, or in a side emergency exit.

1) By sliding downwards each side window not excluded above shall provide an opening (for emergency egress) at least 560 mm (22") wide (fore & aft) and at least 230 mm (9") high. However, with the window in its lowest position the opening shall be at least 460 mm (18.1") above the seating surface of any passenger seat. Any latch located in the side window opening shall be recessed. Each such opening shall be free of outside or inside window guard(s) or bar(s). Split-sash windows may be installed. Each exposed edge of glass shall be banded.

2) A horizontal "Stop Line" shall be affixed permanently across the stationary structure between each of the windows that can be opened by sliding downwards. The bottom of the line shall be between 150 mm and 155 mm (5.9" and 6.1") below the top of the window opening. The line shall contrast with the color of the stationary structure and be at least 5 mm (.2") wide.

qq) Windshield.

1) The windshield shall be large enough to permit the operator to see the highway clearly, and shall be curved or slanted to reduce glare. The front cornerposts and other supports shall be shaped and located so as to cause as little obstruction to the driver's view of the highway as practical.

2) The windshield shall have a graduated glazing shade band across the top. The definition and boundary of this shade

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

band shall be as recommended in SAE Recommended Practice J100, July 1969.

rr) Wiring.

- 1) All wiring for lamps and other electrical devices shall be as recommended for automobiles, motor coaches, and heavy duty starting motor circuits in SAE Recommended Practices J556, J555a, and J541a and in other practices or standards referenced therein, unless preempted by FMVSS.

- 2) A) Wiring shall be arranged in at least nine regular circuits as follows:

- i) Head, tail, stop (brake), and instrument panel lamps;

- ii) Clearance lamps and any lamps in or adjacent to step risers;

- iii) Interior lamps;

- iv) Starter motor;

- v) Ignition, emergency exit alarm signal(s), and other alarm signal(s);

- vi) Turn signal lamps;

- vii) Alternately flashing signal lamps and stop signal arm lamps;

- viii) Horn;

- ix) Heater and defroster.

- B) Any of the above combination circuits, except (vii), may be divided into independent circuits. Whenever feasible, all other electrical functions (sanders, windshield wipers, heaters, defrosters, etc.) shall be provided with independent and properly protected circuits.

- 3) Each body circuit shall be coded either by numeral(s) and/or letter(s) at approximately 100 mm (3.9") intervals, or by color and numeral(s) and/or letter(s), or by color(s) only. The code(s) shall appear on a diagram of the circuits in a readily accessible location.

- 4) A separate fuse or circuit breaker shall be provided for at least each circuit required under Section 440.420(rr)(2)(A), except that components of the engine starter and ignition circuits may be protected by other means.

- 5) Wires not enclosed within the body shall be fastened securely at intervals of not more than 460 mm (18.1").

- 6) All terminals and splice clips shall be accessible.

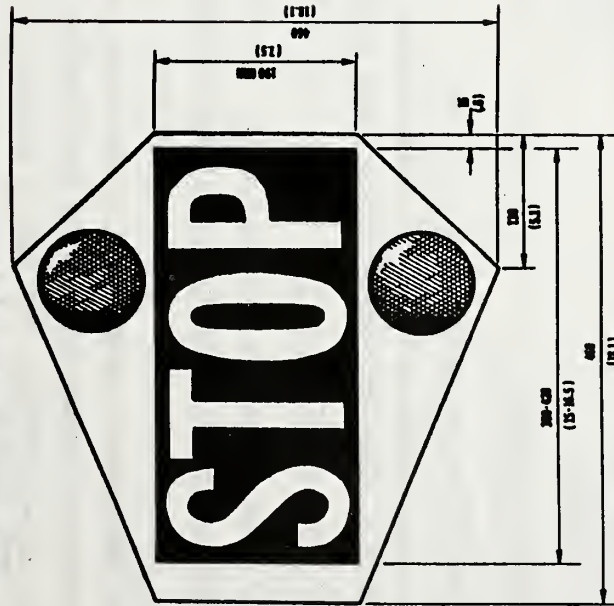
- 7) The chassis manufacturer shall install a readily accessible electrical terminal so that the net body and chassis electrical current flow can be indicated through a chassis ammeter without dismantling or disassembling the chassis component. The chassis wiring to this terminal shall have a current carrying capacity at least equal to the maximum generator output.

(Source: Amended at 16 Ill. Reg. 1655, effective January 14, 1992)

Section 440. ILLUSTRATION A Hexagon Shaped Stop Signal Arm

(One design that conforms to Section 12-803, IVC)

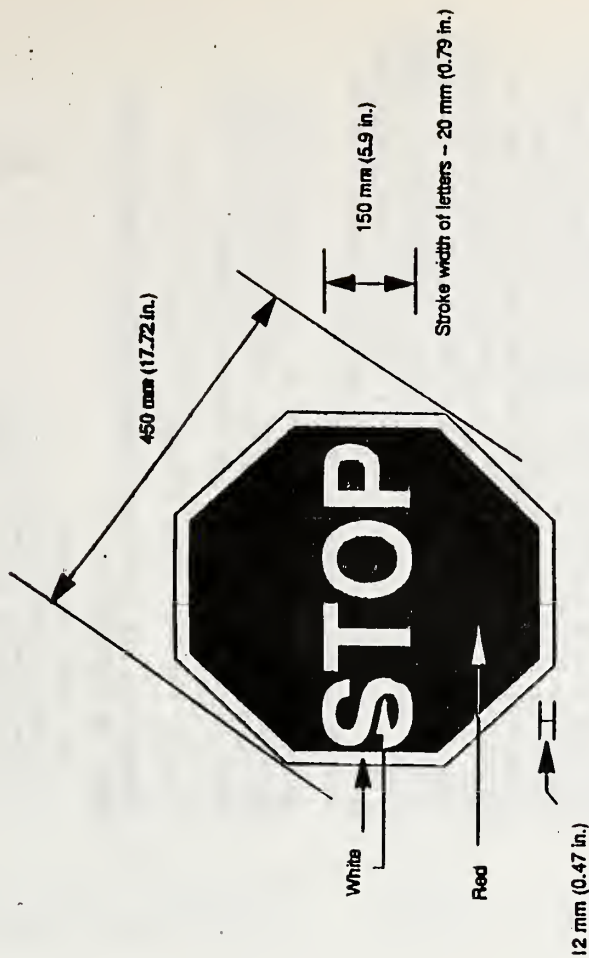
Optional Double Faced Red Lamp, 95-115 (3.5-4.5) diameter. Lamps, if installed, are to flash alternately top & bottom towards front & rear when arm extends.



Word "STOP" at least 150 (6) high; brush stroke at least 20 (.8). Dark areas Red, balance White.
When red lamps are not installed, white areas, except letters, MUST be reflectorized. Letters may be reflectorized.
Center word "STOP" on height and width of red background.
Front face shown; Rear face similar.
Dimensions are millimeters (inches). Tolerance ± 3 except as shown.

(Source: Amended at 16 Ill. Reg. 1655, effective January 14, 1992)

Section 440. ILLUSTRATION B Octagon Shaped Stop Signal Arm



(Source: Added at 16 Ill. Reg. 1655, effective January 14, 1992

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Minimum Safety Standards for Construction of Type II School Buses
- 2) Code Citation: 92 Ill. Adm. Code 442
- 3) Section Numbers:

442.285	<u>Adopted Action:</u>
442.Appendix A	Amend
442.Appendix E	Amend
	New Exhibit
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 12-800 through 12-820
- 5) Effective date of rules: January 14, 1992
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference?
Yes. These conform to Section 6.02(a) of the Illinois Administrative Procedure Act.
- 8) Date filed in agency's principal office: January 10, 1992
- 9) Notice of proposal published in Illinois Register:
September 6, 1991, 15 Ill. Reg. 13072
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:
The following changes were made in agreement with JCAR and the Code Division:
The Department corrected the Table of Contents by placing the Part number in front of the Appendices.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR?
No substantive agreements were necessary.
- 13) Will this rule replace an Emergency Rule currently in effect? No
- 14) Are there any amendments pending on this Part? No

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and purpose of rules:
By this Notice of Adopted Amendments, the Department proposes to revise its standards governing stop signal arms on Type II school buses. USDOT adopted a rule at 56 FR 20363, May 3, 1991, which establishes a new safety standard requiring that new school buses be equipped with an octagon shaped semaphore. The Department's authority concerning stop signal arms is contained in Section 12-803(b) of the Illinois Vehicle Code (the Code) (Ill. Rev. Stat. 1989, ch. 95 1/2, par. 12-803 (b)). The federal regulation requires that buses manufactured on and after September 1, 1992, be equipped with a stop signal arm which is octagon shaped. Section 12-803(a) of the Code requires buses with a model year prior to 1984 be equipped with a hexagon shaped semaphore. Section 12-803(b) of the Code authorizes the Department to set standards for buses with model years of 1984 or later. By this rulemaking, those buses with model years of 1984 or later, but manufactured prior to September 1, 1992, may be equipped with either a hexagon or an octagon shaped semaphore. Also, by this rulemaking, and, in keeping with the federal regulation, all school buses manufactured on and after September 1, 1992 must be equipped with the octagon shaped semaphore.

Additionally, in agreement with the Code Division, the Department corrected statutory language without showing strike throughs and underlining. The statutory language shown in this Section is now correctly shown.

Finally, the Department changed the authority note.

- 16) Information and questions regarding these adopted rules shall be directed to:

Ms. Mary Roseberry
Regulations Unit
Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 442
MINIMUM SAFETY STANDARDS FOR CONSTRUCTION
OF TYPE II SCHOOL BUSES

SUBPART A: GENERAL

Section
442.110
442.120
442.130

Scope
Definitions
Federal Requirements

SUBPART B: CONSTRUCTION OF BODY

Section
442.205
442.210
442.215
442.220
442.225
442.230
442.235
442.240
442.245
442.250
442.255
442.260
442.265
442.270
442.275
442.285
442.290
442.295
442.300
442.305
442.310
442.315
442.320
442.325

Aisle
Body Structure
Ceiling and Side Walls
Defrosters
Doors
Emergency Exits and the Service Door Alarms
Floor Covering
Glazing
Heater
Identification
Mirrors
Rub Rails
Seat Belts
Seating
Service Entrance
Stanchion Guard Panel or Barrier Guard
Stop Signal Arm
Tool Compartment (Purchaser's Option)
Sun Visor
Undercoating
Ventilation
Window Opening
Windshield
Windshield Wipers
Windshield Washer

Section
442.405

Air Cleaner

SUBPART C: CHASSIS REQUIREMENTS

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

442.410 Axles
442.415 Brakes
442.420 Bumpers, Front and Rear
442.425 Drive Shaft
442.430 Engine
442.435 Exhaust System and Muffler
442.440 Frame
442.445 Fuel Tank
442.450 Heater Connections
442.455 Horn
442.460 Ignition
442.465 Instruments
442.470 Oil Filter
442.475 Shock Absorbers
442.480 Springs
442.485 Steering Gear
442.490 Tires and Wheels
442.495 Transmissions

SUBPART D: ELECTRICAL SYSTEMS REQUIREMENTS

Section
442.605
442.610
442.615
442.620

Battery
Generator and Alternator
Lamps, Reflectors, and Signals
Wiring

SUBPART E: EQUIPMENT REQUIREMENTS

Section
442.705
442.710
442.715

Fire Extinguishers (Purchaser's Option)
First-Aid Kit (Purchaser's Option)
Warning Devices for Disabled Vehicle (Purchaser's Option)

442.APPENDIX A
442.APPENDIX B
442.APPENDIX C

Hexagon Shaped Stop Signal Arm
Federal Motor Vehicle Safety Standards (FMVSS) and Related Rules
Specification Sheet Reflective Material
Encapsulated Lens (Based on FHWA Notice N 5040.17, June 15, 1976)(Repealed)
Sheeting and Tape, Reflective: Nonexposed Lens
Octagon Shaped Stop Signal Arm

442.APPENDIX D
442.APPENDIX E

AUTHORITY: Implementing Article VIII and authorized by Section 12-812 of the Illinois Vehicle Code (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 12-800 through 12-820).

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

Appendix A depicts one shape of arm that conforms to Section 12-803 of the Illinois Vehicle Code. Section 442, Appendix A depicts the hexagon shaped semaphore referenced in subsection (a)(1). Section 442, Appendix E depicts the octagon shaped semaphore referenced in subsection (a)(3).

(Source: Amended at 16 Ill. Reg. 1685, effective January 14, 1992)

SOURCE: Adopted at 2 Ill. Reg. 45, p.115, effective November 10, 1978; codified at 8 Ill. Reg. 15002; amended at 8 Ill. Reg. 15505, effective August 10, 1984; amended 12 Ill. Reg. 4220, effective February 9, 1988; amended at 16 Ill. Reg. 1685, effective January 14, 1992.

NOTE: Capitalization denotes statutory language.

Section 442.285 Stop Signal Arm

a) Section 12-803 of the IVG provides that, "---EACH SCHOOL BUS SHALL BE EQUIPPED WITH A STOP SIGNAL ARM ON THE DRIVER'S SIDE OF THE SCHOOL BUS WHICH MAY BE OPERATED EITHER MANUALLY OR MECHANICALLY.

1) FOR ANY SCHOOL BUS WITH A MODEL YEAR PRIOR TO 1984, THE ARM SHALL BE A HEXAGON SHAPED SEMAPHORE APPROXIMATELY 18 INCHES WIDE AND 18 INCHES LONG AND OF 16-GAUGE METAL. "STOP" SHALL BE PAINTED ON BOTH SIDES IN WHITE LETTERS AT LEAST SIX INCHES HIGH WITH A BRUSH STROKE APPROXIMATELY 7/8 INCH WIDE AND ON A RED BACKGROUND APPROXIMATELY EIGHT INCHES X 16 INCHES. DECALS MAY BE USED INSTEAD OF PAINTING. THE REMAINING AREA OF THE STOP SIGNAL ARM SHALL BE PAINTED WHITE AND SHALL EITHER BE REFLECTORIZED OR SHALL HAVE TWO DOUBLE FACED LAMPS WITH PLAIN, RED LENS APPROXIMATELY FOUR INCHES IN DIAMETER LOCATED ONE AT THE TOPMOST AND ONE AT THE BOTTOMMOST POSITION OF THE ARM. SUCH LAMPS SHALL LIGHT AND FLASH WHEN THE ARM IS EXTENDED AND SHALL TURN OFF AND STOP FLASHING WHEN THE ARM IS CLOSED. (Ill. Rev. Stat. 1989, ch. 1/2, par. 12-803)

2) For any school bus with a model year after 1983 but manufactured prior to September 1, 1992, the arm can either be a hexagon or an octagon shaped semaphore. The arm must conform to all other provisions listed in subsection (a)(1).

3) For any school bus manufactured on and after September 1, 1992, the arm must be an octagon shaped semaphore which conforms to 49 CFR 571.131 (56 FR 20363, May 3, 1991). No later amendments to or editions of 49 CFR 571.131 are incorporated.

b) "Operated ... mechanically" shall be interpreted to include power operation. Also, "16-gauge metal" shall be interpreted to include thicker metal and any nonmetallic material equivalent or superior in stiffness, corrosion resistance, and durability to hot rolled 16-gauge mild steel.

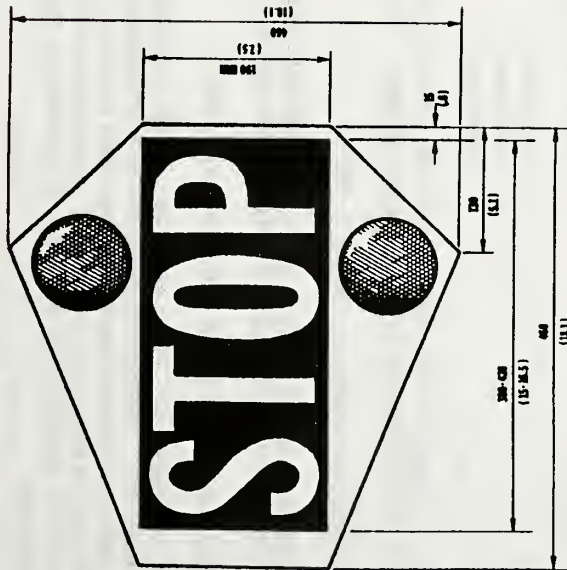
DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

Section 442. APPENDIX A Hexagon Shaped Stop Signal Arm

STOP SIGNAL ARM

(One design that conforms to Section 12-803, IVC)

Optional Double Faced Red Lamps, 95-115 (3.5-4.5) diameter. Lamps, if installed, are to flash alternately top & bottom towards front & rear when arm extends.

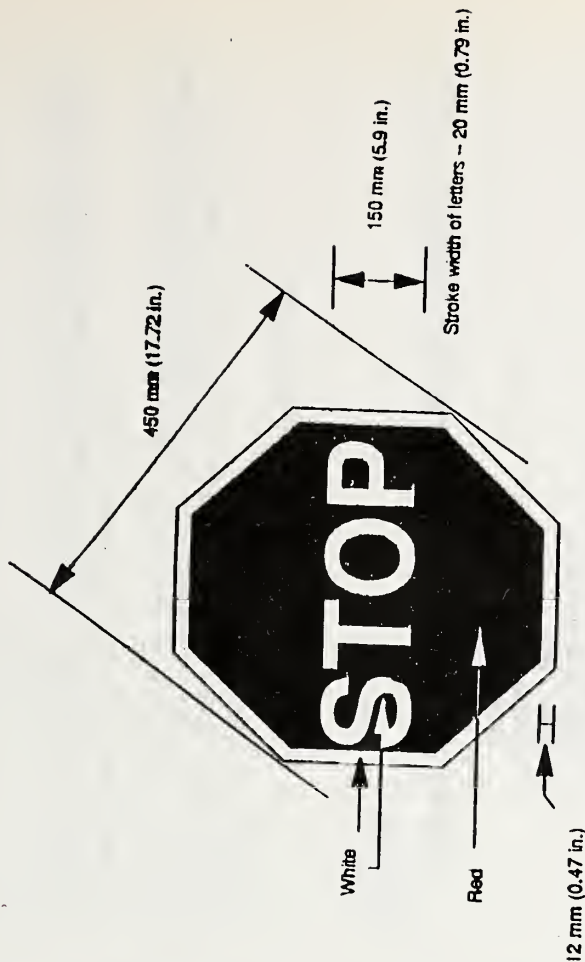


Word "STOP" at least 150 (6) high; brush stroke at least 20 (8). Dark areas Red, balance White. When red lamps are not installed, white areas, except letters, MUST be reflectorized. Center word "STOP" on height and width of red background. Front face shown. Rear face similar. Dimensions are millimeters (inches). Tolerance ± 3 except as shown.

(Source: Amended at 16 Ill. Reg. 1685, effective January 14, 1992

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED AMENDMENTS

Section 442. APPENDIX E Octagon Shaped Stop Signal Arm



(Source: Added at 16 Ill. Reg. 1685, effective January 14, 1992)

PRAIRIE STATE 2000 AUTHORITY

NOTICE OF EMERGENCY AMENDMENTS

- 1) The Heading of the Part: Individual Training Assistance Program
- 2) Code Citation: 56 Ill. Adm. Code 5400
- 3) Section Numbers:

	<u>Emergency Action:</u>
5400.110	Amendment
5400.210	Amendment
5400.310	Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 48, par 1512, Public Act 87-661, Section 5, signed September 20, 1991, effective January 1, 1992.
- 5) Effective Date of Amendments: January 3, 1992.
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Does Not Apply
- 7) Date Filed in Agency's Principal Office: January 2, 1992
- 8) Reason for Emergency: Public Act 87-661, signed September 20, 1991 and effective January 1, 1992 provides new authority for Prairie State 2000 Authority to make grants for workplace literacy and basic skills education. The Act requires adoption of rules to carry out its provisions. Adverse economic conditions, need of public for program and pendency of applications requires immediate implementation.
- 9) A Complete Description of the Subjects and Issues Involved: Provides for workplace literacy and basic skills education grants to be made in accordance with statute.
- 10) Are there any proposed amendments to this Part pending? No.
- 11) Statement of Statewide Policy Objectives: Does Not Apply

PRAIRIE STATE 2000 AUTHORITY

NOTICE OF EMERGENCY AMENDMENTS

- 12) Information and questions regarding this rule (amendment, repealer) shall be directed to:

Dennis Sienko
 Chief Executive Officer
 Prairie State 2000 Authority
 State of Illinois Center
 Suite 4-800
 Chicago, Illinois 60601
 (312) 814-2700

The full text of the emergency amendments begin on the next page:

PRAIRIE STATE 2000 AUTHORITY
NOTICE OF EMERGENCY AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER XII: PRAIRIE STATE 2000 AUTHORITY

PART 5400
INDIVIDUAL TRAINING ASSISTANCE PROGRAM
SUBPART A: SUMMARY AND DEFINITIONS

Section
5400.100
5400.110
EMERGENCY

Summary and Purpose
Definitions

SUBPART B: APPLICATION PROCESS

Section
5400.200
5400.210
EMERGENCY

Eligible Applicants
Qualification of Training Programs and Training Providers
Approval of Intake Centers
Application Requirements
On-Site Inspection

SUBPART C: SELECTION CRITERIA

Section
5400.300
5400.310
EMERGENCY

Selection Criteria
Amount of Vouchers
Notification and Submission of Claims
Issuance of Vouchers
Redemption of Vouchers

SUBPART D: POST-AWARD REQUIREMENTS

Section
5400.400

Recordkeeping, Reporting and Access to Information

ILLINOIS REGISTER

PRAIRIE STATE 2000 AUTHORITY
NOTICE OF EMERGENCY AMENDMENTS

5400.410 Inspection of Records and Verification of Successful Completion
5400.420 Refund of Benefits

AUTHORITY: Implementing and authorized by the Prairie State 2000 Authority Act (Ill. Rev. Stat. 1985 1989, ch. 48, par. 1501 et seq.) and Public Act 87-661, Section 5, signed September 20, 1991, effective January 1, 1992.

SOURCE: Emergency Rules adopted at 10 Ill. Reg. 4268, effective February 20, 1986, for a maximum of 150 days; adopted at 10 Ill. Reg. 16696, effective October 3, 1986; emergency amendments adopted at 16 Ill. Reg. 1693, effective January 3, 1992, for a maximum of 150 days.

SUBPART A: SUMMARY AND DEFINITIONS

Section 5400.110 Definitions
EMERGENCY

"Act" means the Prairie State 2000 Authority Act (Ill. Rev. Stat. 1985 1989, ch. 48, par. 1501 et seq.).

"Applicant" means an individual who has applied to receive Benefits under the Program.

"Applications" means the applications for Benefits submitted by individuals under this Program.

"Authority" means the Prairie State 2000 Authority.

"Benefits" means the educational or vocational training vouchers authorized under the Act.

"Board" means the Board of Directors of the Authority.

"Dislocated Worker Center" means which provides a wide range of counseling, assessment, training, job search and placement services to workers and which is identified by the Illinois Department of Commerce and Community Affairs as a Dislocated Worker Center.

PRAIRIE STATE 2000 AUTHORITY

NOTICE OF EMERGENCY AMENDMENTS

"Employed" means engaged in employment as defined in Section 206 of the Unemployment Insurance Act (Ill. Rev. Stat. 4985 1989, ch. 48, par. 316).

"Fund" means the Prairie State 2000 Fund established in the Illinois State Treasury.

"Intake Center" means an institution meeting the requirements of Section 5400.220(b) and approved by the Board pursuant to Section 5400.220(d).

"Program" means the Individual Training Assistance Program

"Qualified Training Program" or "Training Program" means a program qualified by the Board pursuant to Section 5400.210.

"Satisfactory Progress" means satisfactory progress as defined by a Training Provider in its published manual of rules and policies or in the absence of Training Provider policy, maintenance of a cumulative 80% attendance record and an average grade of "C" or better.

"Service Deliver Area" means the governing body of an area designed as a service delivery area under the federal Job Training Partnership Act (29 U.S.C. 1511).

"State" means the State of Illinois.

"Successfully Complete" or "Successful Completion" means successful completion as defined by and in accordance with the practices of the Training Provider and as published in the Training Provider's manual of rules and policies.

"Training Provider" means an institution which meets the eligibility requirements of Section 5400.210(c), and which provides a Training Program qualified by the Board pursuant to Section 5400.210(d).

"Unemployed" means an unemployed individual as defined in Section 239 of the Unemployment Insurance Act (Ill. Rev. Stat. 4985 1989, ch. 48, par. 349).

PRAIRIE STATE 2000 AUTHORITY

NOTICE OF EMERGENCY AMENDMENTS

c) Qualified Training Programs may be offered by Training Providers which are institutions located in the State (Section 17 of the Act) and which satisfy one of the following eligibility requirements:

1) The institution is operated by *public school as defined in the School Code* (Ill. Rev. Stat. 4985 1989, ch. 122, par. 1-3). (Section 17 of the Act)

2) The institution is operated by a *public community college as defined in the Public Community College Act*, (Ill. Rev. Stat. 4986 1989, ch. 122, par 101-2). (Section 17 of the Act)

3) The institution is operated *publicly or privately on a not for profit basis and meets standards substantially equivalent to those of comparable institutions operated by the State or by public community colleges*. (Section 17 of the Act) In determining whether an institution meets standards substantially equivalent to those of comparable institutions operated by the State or by public community colleges, the Authority shall consider standards as established by the State Board of Education and shall consider factors such as the adequacy of the physical facilities, the qualifications of the instructors, and the placement history of the institution.

4) The institution is operated by a college or any business, trade, technical or vocational school which is recognized or accredited by a recognized national or multistate organization or association which regularly recognizes or accredits colleges or schools. (Section 17 of the Act)

5) The institution is operated publicly or privately, but does not operate as its principal business educational and vocational training programs, provided the programs offered by the institution are operated as a distinct unit of that institution, and participation in the program is not contingent on an individual's becoming an employee of that concern. (Section 17 of the Act)

d) On a quarterly basis the Board shall publish a list of Qualified Training Program for which vouchers may be issued under these rules. The list shall be kept on file at the Authority's office and shall be available upon request. Qualified Training Programs must meet the requirements of subsection (b) of this Section and must be offered by a Training Provider meeting the requirements of subsection (c) of this Section. In selecting those programs which qualify, the Board shall consider the following:

PRAIRIE STATE 2000 AUTHORITY

NOTICE OF EMERGENCY AMENDMENTS

"Workplace Literacy and Basic Skills Education" means those common branch skills and English - as - a - second - language skills that are directly related to the ability to perform occupational tasks.

(Source: Emergency amended at 16 Ill. Reg. 1693, effective January 3, 1992 for a maximum of 150 days)

SUBPART B: APPLICATION PROCESS

Section 5400.210 Qualification of Training Programs and Training Providers
EMERGENCY

a) The Authority shall approve educational and vocational programs and courses as Qualified Training Programs in which individuals seeking additional educational skills may enroll and for which individuals may receive Benefits to defray the costs of the Training Program.

b) Training Programs which are eligible to be qualified pursuant to this Section shall:

- 1) provide vocational or educational training in semi-technical or technical fields or semi-skilled or skilled fields;
 - 2) reflect current local labor market needs; and
 - 3) be structured to develop marketable skills. (Section 17 of the Act)
- Generally, except for workplace literacy and basic skills education training, if more than 50% of the training consists of basic education (such as remedial english or math) of if the training is in preparation of a job providing compensation based solely on commission, that training does not constitute vocational or educational training in semi-technical or technical fields or semi-skilled or skilled fields. Training Providers may utilize labor market information sources such as the Illinois Department of Employment Security and the Illinois Occupational Information Coordinating Council, to demonstrate that programs reflect current local labor market needs and are structured to develop marketable local labor market needs and are structured to develop marketable skills. Any Training Program approved pursuant to the federal Job Training Partnership Act, or paragraph c(5) of Section 500 of the Unemployment Insurance Act (Ill. Rev. Stat. 1985 1989, ch. 48, par. 420), or approved as an apprenticeship Training Program by the Illinois Department of Employment Security is an eligible Training Program. (Section 17 of the Act)

ILLINOIS REGISTER

PRAIRIE STATE 2000 AUTHORITY

NOTICE OF EMERGENCY AMENDMENTS

- 1) The recommendations of the State Board of Higher Education, the State Board of Education, the Illinois Community College Board and other state agencies or associations. (Section 17 of the Act)
- 2) The extent to which the Training Program advances the purposes of the Act.
- 3) The extent to which the Training Program maximizes the number of jobs to be created or retained.
- 4) The degree of need for the skills to be provided by the Training Program.
- 5) The demand for the Training Program and the availability of funds to finance vouchers for the Training Program.

(Source: Emergency amended at 16 Ill. Reg. 1693, effective January 3, 1992 for a maximum of 150 days)

SUBPART C: SELECTION CRITERIA

Section 5400.310 Amount of Vouchers
EMERGENCY

An Applicant whose application is approved by the Authority pursuant to the provisions of Section 5400.300 may receive the amount of Benefits established as follows:

- a) If the Applicant is unemployed and meets the requirements of Section 5400.200(e)(1) or Section 5400.200(e)(2) the applicant may receive benefits in an amount equal to the aggregate costs of tuition, any required Training Provider fees to reimburse the Intake Center for the services it provides and required educational fees, such as lab fees, for the Training Program in which the applicant intends to enroll, all as approved by the Authority in its arrangement with the Intake Center or Training Provider; provided that the aggregate value of the vouchers to be issued, together with all such vouchers issued within the 24 months preceding the determination, shall not exceed \$2,000, except for workplace literacy and basic skills education training. (Section 15(a) of the Act)
- b) If the Applicant is employed and meets the requirements of Section 5400.200(e)(3) the applicant may receive benefits in an amount equal to 50% (and in the case of workplace literacy and basic skills education training, up to 100%) of the aggregate costs of tuition, any required Training Provider fees to reimburse the Intake Center for the services it provides and required educational fees, such as lab fees, for the Training Program in

PRAIRIE STATE 2000 AUTHORITY

POLLUTION CONTROL BOARD

NOTICE OF EMERGENCY AMENDMENTS

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

which the applicant intends to enroll all as approved by the Authority in its arrangement with the Intake Center or Training Provider; provided that, except in the case of workplace literacy and basic skills education training, the aggregate value of the vouchers to be issued, together with all such vouchers issued within the 24 months preceding the determination, shall not exceed \$1,000. (Section 15(b) of the Act)

- c) An applicant who has received benefits under the Act, the amount of which was determined under Subsection (a) of this Section, is not eligible to receive benefits in the amount determined in subsection (b) of this Section until the applicant is qualified to receive benefits under subsection (b) of this Section and meets the requirements of Section 5400.200. (Section 15(f) of the Act)

(Source: Emergency amended at 16 Ill. Reg. 1693, effective January 3, 1992 for a maximum of 150 days)

- 1) The Heading of the Part: Existing Activities In A Setback Zone or Regulated Recharge Area

- 2) Code Citation: 35 Ill. Adm. Code 615

- 3) Section Numbers:

615.101	Action:
615.102	Refusal
615.103	Refusal
615.104	Refusal
615.105	Refusal
615.201	Refusal
615.202	Refusal
615.203	Refusal
615.204	Refusal
615.205	Refusal
615.206	Refusal
615.207	Refusal
615.208	Refusal
615.209	Refusal
615.210	Refusal
615.211	Refusal
615.301	Refusal
615.302	Refusal
615.303	Refusal
615.304	Refusal
615.305	Refusal
615.306	Refusal
615.307	Refusal
615.401	Refusal
615.402	Refusal
615.403	Refusal
615.404	Refusal
615.421	Refusal
615.422	Refusal
615.423	Refusal
615.424	Refusal
615.425	Refusal
615.441	Refusal
615.442	Refusal
615.443	Refusal
615.444	Refusal
615.445	Refusal
615.446	Refusal
615.447	Refusal
615.461	Refusal

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

615.462 Refusal
615.463 Refusal
615.464 Refusal
615.501 Refusal
615.502 Refusal
615.601 Refusal
615.602 Refusal
615.603 Refusal
615.604 Refusal
615.621 Refusal
615.622 Refusal
615.623 Refusal
615.624 Refusal
615.701 Refusal
615.702 Refusal
615.703 Refusal
615.704 Refusal
615.705 Refusal
615.721 Refusal
615.722 Refusal
615.723 Refusal
615.724 Refusal

4) Date Notice of Proposed Rules Published in the Register (if applicable):

July 12, 1991 15 Ill. Reg. 10303
(issue date)

5) Date JCAR Statement of Objection Published in the Register:

December 6, 1991 15 Ill. Reg. 17791
(issue date)

6) Summary of Action Taken by the Agency:

The text of the resolution that the Board adopted in response to the JCAR Objection is as follows:

ILLINOIS REGISTER
POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

ILLINOIS POLLUTION CONTROL BOARD
December 6, 1991

IN THE MATTER OF:

GROUNDWATER PROTECTION: REGULATIONS FOR
EXISTING AND NEW ACTIVITIES WITHIN SET-
BACK ZONES AND REGULATED RECHARGE AREAS
(35 ILL. ADM. CODE 601, 615, 616 and 617)
("TECHNICAL STANDARDS")
RES 91-1
R89-5
(Rulemaking)

RESOLUTION AND ORDER OF THE BOARD (by R. C. Flemal):

In Docket R89-5, the Pollution Control Board ("Board") proposed new rules in 35 Ill. Adm. Code Parts 615, 616, and 617, and amendments at 35 Ill. Adm. Code 601. The proposal was considered by the Joint Committee on Administrative Rules ("JCAR") at its November 19, 1991 meeting. JCAR issued an objection to each of the proposed rules and amendments in this docket.

This resolution and order constitutes the Board's formal response to JCAR's November 19, 1991 objection to 35 Ill. Adm. Code 615, 616, 617, and 601. Section 7.06(c) of the Administrative Procedure Act ("IAPA") requires that an agency respond within 90 days of an objection. Section 7.06(c) of the IAPA states that an agency may, (1) modify the proposed rule or amendment to meet JCAR's objection, (2) withdraw the proposed rule or amendment in its entirety, or (3) refuse to modify or withdraw the proposed rule or amendment. For the reasons set forth below, the Board hereby refuses to modify or withdraw the proposed rules.

The Objection

The JCAR statement of objection is as follows:

The Committee objects to the rules of the PCB [cite to the specific proposed rule or amendment] because the rules are part of a groundwater protection program that creates undo (sic) burden for certain small businesses. Additionally, according to information submitted by the Board at 2nd Notice, the Board failed to consider any regulatory alternatives designed to minimize the economic impact on small businesses, as required by Section 7.06(a) of the IAPA.

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

The text of the objection is the same for parts 601, 615, 616, and 617.

Board Response

The Board does not take a JCAR Objection lightly.

The Board first observes that the issues raised by the objection really only pertain to the proposed new rules contained in parts 615 and 616. The amendments to part 601 only contain a change in the definition of the term "groundwater" by adding the statutory definition of the term. Proposed new part 617 was created as a "shell" for the placement of regulated recharge area determinations when these are promulgated. To date, no petitions for regulated recharge area determinations have been submitted to the Board. Therefore, the part 601 and 617 actions are merely procedural rather than substantive actions, and consequently do not involve economic issues. However, since JCAR objected generally to all four parts, the Board's response includes all four parts.

Undue Burden

The JCAR objection contains two issues. The first concerns the proposed rules as part of a groundwater protection program, that, as JCAR believes, creates an undue burden for certain small businesses¹.

The Board regulations follow the directives in the Environmental Protection Act, Ill. Rev. Stat. 111 1/2, par. 1001 et seq. ("Act"), specifically section 14.4. The legislature specifically mandated that the Board regulate new and existing activities within regulated recharge areas and setback zones as part of the groundwater protection regulations². Some small businesses which store or handle pesticides and fertilizers may be affected by these rules. Pesticide and fertilizer facilities are among the activities explicitly identified by the legislature to be subject to these groundwater protection regulations. The list

¹ The "certain small businesses" alluded to by JCAR are, evidently, limited to agricultural facilities.

² This is an important point. The Board regulations only cover those activities within setback zones and regulated recharge areas, not the entire state.

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

of activities is found at Section 14.4(a)(3) of the Act, where the Agency is to propose regulations:

prescribing standards and requirements for the following activities; . . . storage and related handling of pesticides and fertilizers at a facility for the purpose of commercial application . . .

In Section 14.4(b), the Board is to include in these regulations for existing activities:

1. appropriate programs for water quality monitoring;
2. reporting, recordkeeping and remedial response measures;
3. appropriate technology-based measures for pollution control; and
4. requirements for closure or discontinuance of operations;

and for new activities, pursuant to Section 14.4(d):

1. appropriate programs for water quality monitoring, including, where appropriate, notification limitations to trigger preventive response activities;
2. design practices and technology-based measures appropriate for minimizing the potential for groundwater contamination;
3. reporting, recordkeeping and remedial response measures; and
4. requirements for closure or discontinuance of operations.

This is not a general mandate; it includes specific directives with which the Board is attempting to comply. Therefore, the Board believes that any burden which may be placed on any businesses as a result of these rules is directly related to the groundwater protection program embodied in the specific

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

statutory mandate, and was considered by the legislature when adopting the Groundwater Protection Act.

The Board, in attempting to comply with the mandate, does not believe that its rules create a burden due to duplication of regulation. The Board addressed this issue as it pertained to the Department of Agriculture's Part 255 rules. On page 15 of the June 20, 1991 Board Opinion and Order, the Board found that the Part 255 rules did not cover all matters addressed in the statutory mandate to the Board, and, based on the extensive record before the Board, concluded that there is a need for groundwater monitoring, closure and post-closure care, reporting and recordkeeping, and remedial response measures.

Prior to submission of Second Notice, the Board again visited this issue, addressing additional comment. In an effort to deal with and eliminate any regulatory overlap between these rules and the Part 255 rules in response to comments, the Board added subsection (b) to Section 615.304 and Section 616.304 that require a survey plat. Subsection (b) would allow that information requirements under any other state or Federal program, which contain the same information required by the Board regulations, may be used to satisfy the Board requirement. The Board is desirous of avoiding duplication of regulatory requirements in all instances.

Furthermore, the Board is unaware of any similar groundwater monitoring requirements under federal programs for pesticides and fertilizers pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 USCA Sec. 136 et seq.).

In summary, the Board believes that any regulatory burden is due to the direct statutory mandate contained in the Groundwater Protection Act amendments to the Environmental Protection Act.

Consideration of Regulatory Alternatives

For the second part of the objection, JCAR believes that the Board's second notice submittal indicates that the Board failed to consider any regulatory alternatives designed to minimize the economic impact on small businesses, as required by Section 7.06 of the IAPA. Under Section 7.06, JCAR may examine proposed rules and amendments, and, in addition:

[JCAR] may consider . . . whether the rule is designed to minimize the economic impact on small businesses.

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

At second notice, the Board submitted information required by JCAR rules 35 Ill. Adm. Code 220.600, the State Mandates Questionnaire, and the Analysis of Economic and Budgetary Effects Questionnaire, as well as copies of the Board's first and second notice opinions and orders.

For the information required by JCAR rules, question 7 contains a "final regulatory flexibility analysis", that pertains to issues raised by small businesses during the rulemaking process. Specifically, question 7 reads:

- 7) A final regulatory flexibility analysis, which shall include the following;
- A) A summary of the issues raised by small businesses during the first notice period; and
- B) A description of actions taken on any alternatives to the proposed rulemaking suggested by small businesses during the first notice period, including reasons for rejecting any alternatives not utilized. (Ill. Rev. Stat. 1985, ch. 127, par. 1005.01(b)).

In response to this question, the Board discussed issues raised by small businesses:

- A) No one who testified or commented specifically identified themselves as a small business representative, although some who commented or testified, such as the Illinois Farm Bureau and Illinois Fertilizer and Chemical Association most likely represent small businesses as well as larger ones.

In its opinions and orders the Board addressed comments made by participants during first notice, as well as those comments and testimony offered during the five days of public hearings held in this docket. The Board reported to JCAR how it addressed the first notice comments by forwarding a copy of the second and first notice opinions, in addition to quoting portions of the second notice opinion in the information submitted pursuant to Section 220.600 (in answer to questions 7 (B) and 9).

The Board addressed the concerns expressed by the small businesses. To the extent that these concerns may be considered

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

"regulatory alternatives designed to minimize the economic impact on small businesses", the Board not only considered some of these "alternatives", but also incorporated some "alternatives" suggested. These changes in response to comments were discussed in answer to question 9 of the Board's second notice submittal at pages 9 and 10, as well as in the second notice opinion at pages 10 and 11. In order to make it as clear as possible that the burden on these small businesses was considered, the Board, in its final opinion and order notes changes it made prior to second notice in certain monitoring and reporting requirements:

In order to strike a balance between lessening the economic burden which may be placed on smaller operators and providing a reasonable degree of assurance that a facility's groundwater protection measures are effective, a semi-annual groundwater monitoring schedule for agricultural facilities is incorporated at Sections 615.207 and 616.208, instead of the quarterly monitoring schedule required by others, where certain conditions are met. Also, the post-closure monitoring requirement for agricultural facilities at Sections 615.202 and 616.202 is three-years, instead of the five-years associated with other types of regulated facilities. December 6, 1991 Op. at p. 17-18.

The Board also allowed that certain reporting requirements that may be duplicative of requirements under Department of Agriculture's Part 255 rules be satisfied by the Part 255 requirement. The only requirement is that the Agency have access to the records. (Section 615.304(b) discussed above)

What the Board did not do was agree with the alternative of deleting the requirement of groundwater monitoring and Agency oversight, although that alternative was certainly considered by the Board. The Board continues to believe that the clear statutory mandate and the information contained in the record do not allow for exemption of these facilities from the groundwater monitoring requirements contained in the rules.

It is true that in answer to a question contained in the Analysis of Economic and Budgetary Effects Questionnaire the Board answered that it considered one regulatory "alternative". Since previous questions covered responses to comments, this question was read as asking whether any alternatives to the entire rulemaking package were considered. The answer to that question is one. The

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

Board regrets any confusion which its answer to this question may have caused.

For the reasons outlined above, the Board considered regulatory alternatives designed to minimize the economic impact on small businesses identified, and incorporated those alternatives to the extent possible, consistent with the statutory mandate. In addition, as was stated in the Board's opinion at second notice and in today's final opinion:

The Board does recognize that there may be individual cases where the economic burden is abnormally heavy and reminds such parties of the adjusted standard process before the Board (pursuant to Title VII of the Act) and, in some cases, the certification of minimal hazard through the Agency (pursuant to Section 14.5 of the Act).

Also, any person may file a petition for amendment to Board regulations (Section 28 of the Act).

Conclusion

The Board does not take a JCAR Objection lightly.

Section 7.06 of the IAPA sets forth the universe of possible Board responses. Neither modification nor withdrawal of the rules appears to be an appropriate response to the Objection, given the mandate of Section 14.4 of the Environmental Protection Act and the Board's belief that it has proposed the only environmentally necessary option available to it based upon the record before it. Under these circumstances, the Board believes its only recourse is to refuse to modify or withdraw these proposed rules.

Notwithstanding its response to the Objection, the Board wishes to thank JCAR and its staff for their efforts and assistance in this review process.

IT IS SO ORDERED.

Board Member J. Theodore Meyer concurred.

[signature in original]
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULESILLINOIS. POLLUTION CONTROL BOARD
December 6, 1991

IN THE MATTER OF:

GROUNDWATER PROTECTION:)
 REGULATIONS FOR EXISTING AND)
 NEW ACTIVITIES WITHIN SETBACK)
 ZONES AND REGULATED RECHARGE) RES 91-1
 AREAS (35 ILL.ADM.CODE 601,) R89-5
 615, 616, and 617))
 ("TECHNICAL STANDARDS"))

CONCURRING OPINION (by J. Theodore Meyer):

I fully agree with the action taken by the Board in refusing to withdraw or modify its groundwater protection rules in response to the objection by the Joint Committee on Administrative Rules (JCAR). I concur only to express some additional thoughts.

While I served as a state representative, I voted for the creation of JCAR. I continue to believe that JCAR serves an important purpose in reviewing the rules of administrative agencies. As a former legislator, I believe that I understand how legislators think, and their experiences in dealing with differing interest groups. A legislator is able to base his or her decision on anything he or she believes is relevant. However, I must point out that the Board has a much narrower path to follow in making its decisions. Pursuant to the Environmental Protection Act (Act) and the Illinois Administrative Procedure Act (APA), this Board can only base its rulemaking decisions on information in the record of the rulemaking. The information in that record must be obtained through the notice, comment, and hearing process established by the Act and the APA. If certain information is not properly placed in the record, the Board cannot base its decision on that information, regardless of the content of that information. These are the rules which the legislature has established, and the Board must follow them.

Finally, I reiterate the Board's position that these rules are consistent with the statutory mandate of the Groundwater Protection Act.

For these reasons, I concur.

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

Signature in original
 J. Theodore Meyer
 Board Member

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

- 1) The Heading of the Part: Introduction
- 2) Code Citation: 35 Ill. Adm. Code 601
- 3) Section Numbers: Action:
601.105 Refusal
- 4) Date Notice of Proposed Rules Published in the Register (if applicable):
July 5, 1991 15 Ill. Reg. 9829
(issue date)
- 5) Date JCAR Statement of Objection Published in the Register:
December 6, 1991 15 Ill. Reg. 17792
(issue date)
- 6) Summary of Action Taken by the Agency:

The text of the resolution that the Board adopted in response to the JCAR Objection is as follows:

ILLINOIS POLLUTION CONTROL BOARD

December 6, 1991

IN THE MATTER OF:

GROUNDWATER PROTECTION: REGULATIONS FOR
EXISTING AND NEW ACTIVITIES WITHIN SET-
BACK ZONES AND REGULATED RECHARGE AREAS
(35 ILL. ADM. CODE 601, 615, 616 and 617)
("TECHNICAL STANDARDS")

RES 91-1
R89-5
(Rulemaking)

RESOLUTION AND ORDER OF THE BOARD (by R. C. Flemal):

In Docket R89-5, the Pollution Control Board ("Board") proposed new rules in 35 Ill. Adm. Code Parts 615, 616, and 617, and amendments at 35 Ill. Adm. Code 601. The proposal was considered by the Joint Committee on Administrative Rules ("JCAR") at its November 19, 1991 meeting. JCAR issued an objection to each of the proposed rules and amendments in this docket.

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

- 1) The Heading of the Part: Introduction
- 2) Code Citation: 35 Ill. Adm. Code 601
- 3) Section Numbers: Action:
601.105 Amendment
- 4) Date Notice of Proposed Rules Published in the Register (if applicable):
July 5, 1991 15 Ill. Reg. 9829
(issue date)
- 5) Date JCAR Statement of Objection Published in the Register:
December 6, 1991 15 Ill. Reg. 17792
(issue date)
- 6) Summary of Action Taken by the Agency:

The text of the resolution that the Board adopted in response to the JCAR Objection is as follows:

ILLINOIS POLLUTION CONTROL BOARD

December 6, 1991

IN THE MATTER OF:

GROUNDWATER PROTECTION: REGULATIONS FOR
EXISTING AND NEW ACTIVITIES WITHIN SET-
BACK ZONES AND REGULATED RECHARGE AREAS
(35 ILL. ADM. CODE 601, 615, 616 and 617)
("TECHNICAL STANDARDS")

RES 91-1
R89-5
(Rulemaking)

RESOLUTION AND ORDER OF THE BOARD (by R. C. Flemal):

In Docket R89-5, the Pollution Control Board ("Board") proposed new rules in 35 Ill. Adm. Code Parts 615, 616, and 617, and amendments at 35 Ill. Adm. Code 601. The proposal was considered by the Joint Committee on Administrative Rules ("JCAR") at its November 19, 1991 meeting. JCAR issued an objection to each of the proposed rules and amendments in this docket.

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

This resolution and order constitutes the Board's formal response to JCAR's November 19, 1991 objection to 35 Ill. Adm. Code 615, 616, 617, and 601. Section 7.06(c) of the Administrative Procedure Act ("IAPA") requires that an agency respond within 90 days of an objection. Section 7.06(c) of the IAPA states that an agency may, (1) modify the proposed rule or amendment to meet JCAR's objection, (2) withdraw the proposed rule or amendment in its entirety, or (3) refuse to modify or withdraw the proposed rule or amendment. For the reasons set forth below, the Board hereby refuses to modify or withdraw the proposed rules.

The Objection

The JCAR statement of objection is as follows:

The Committee objects to the rules of the PCB [cite to the specific proposed rule or amendment] because the rules are part of a groundwater protection program that creates undo (sic) burden for certain small businesses. Additionally, according to information submitted by the Board at 2nd Notice, the Board failed to consider any regulatory alternatives designed to minimize the economic impact on small businesses, as required by Section 7.06(a) of the IAPA.

The text of the objection is the same for parts 601, 615, 616, and 617.

Board Response

The Board does not take a JCAR Objection lightly.

The Board first observes that the issues raised by the objection really only pertain to the proposed new rules contained in parts 615 and 616. The amendments to part 601 only contain a change in the definition of the term "groundwater" by adding the statutory definition of the term. Proposed new part 617 was created as a "shell" for the placement of regulated recharge area determinations when these are promulgated. To date, no petitions for regulated recharge area determinations have been submitted to the Board. Therefore, the part 601 and 617 actions are merely procedural rather than substantive actions, and consequently do not involve economic issues. However, since JCAR objected generally to all four parts, the Board's response includes all four parts.

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

Undue Burden

The JCAR objection contains two issues. The first concerns the proposed rules as part of a groundwater protection program, that, as JCAR believes, creates an undue burden for certain small businesses¹.

The Board regulations follow the directives in the Environmental Protection Act, Ill. Rev. Stat. 111 1/2, par. 1001 et seq. ("Act"), specifically section 14.4. The legislature specifically mandated that the Board regulate new and existing activities within regulated recharge areas and setback zones as part of the groundwater protection regulations². Some small businesses which store or handle pesticides and fertilizers may be affected by these rules. Pesticide and fertilizer facilities are among the activities explicitly identified by the legislature to be subject to these groundwater protection regulations. The list of activities is found at Section 14.4(a)(3) of the Act, where the Agency is to propose regulations:

prescribing standards and requirements for the following activities; . . . storage and related handling of pesticides and fertilizers at a facility for the purpose of commercial application . . .

In Section 14.4(b), the Board is to include in these regulations for existing activities:

1. appropriate programs for water quality monitoring;
2. reporting, recordkeeping and remedial response measures;
3. appropriate technology-based measures for pollution control; and

¹ The "certain small businesses" alluded to by JCAR are, evidently, limited to agricultural facilities.

² This is an important point. The Board regulations only cover those activities within setback zones and regulated recharge areas, not the entire State.

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

4. requirements for closure or discontinuance of operations;

and for new activities, pursuant to Section 14.4(d):

1. appropriate programs for water quality monitoring, including, where appropriate, notification limitations to trigger preventive response activities;
2. design practices and technology-based measures appropriate for minimizing the potential for groundwater contamination;
3. reporting, recordkeeping and remedial response measures; and
4. requirements for closure or discontinuance of operations.

This is not a general mandate; it includes specific directives with which the Board is attempting to comply. Therefore, the Board believes that any burden which may be placed on any businesses as a result of these rules is directly related to the groundwater protection program embodied in the specific statutory mandate, and was considered by the legislature when adopting the Groundwater Protection Act.

The Board, in attempting to comply with the mandate, does not believe that its rules create a burden due to duplication of regulation. The Board addressed this issue as it pertained to the Department of Agriculture's Part 255 rules. On page 15 of the June 20, 1991 Board Opinion and Order, the Board found that the Part 255 rules did not cover all matters addressed in the statutory mandate to the Board, and, based on the extensive record before the Board, concluded that there is a need for groundwater monitoring, closure and post-closure care, reporting and recordkeeping, and remedial response measures.

Prior to submission of Second Notice, the Board again visited this issue, addressing additional comment. In an effort to deal with and eliminate any regulatory overlap between these rules and the Part 255 rules in response to comments, the Board added subsection (b) to Section 615.304 and Section 616.304 that require a survey plat. Subsection (b) would allow that information requirements under any other state or Federal program, which

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

contain the same information required by the Board regulations, may be used to satisfy the Board requirement. The Board is desirous of avoiding duplication of regulatory requirements in all instances.

Furthermore, the Board is unaware of any similar groundwater monitoring requirements under federal programs for pesticides and fertilizers pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 USCA Sec. 136 et seq.).

In summary, the Board believes that any regulatory burden is due to the direct statutory mandate contained in the Groundwater Protection Act amendments to the Environmental Protection Act.

Consideration of Regulatory Alternatives

For the second part of the objection, JCAR believes that the Board's second notice submittal indicates that the Board failed to consider any regulatory alternatives designed to minimize the economic impact on small businesses, as required by Section 7.06 of the IAPA. Under Section 7.06, JCAR may examine proposed rules and amendments, and, in addition:

[JCAR] may consider . . . whether the rule is designed to minimize the economic impact on small businesses.

At second notice, the Board submitted information required by JCAR rules 35 Ill. Adm. Code 220.600, the State Mandates Questionnaire, and the Analysis of Economic and Budgetary Effects Questionnaire, as well as copies of the Board's first and second notice opinions and orders.

For the information required by JCAR rules, question 7 contains a "final regulatory flexibility analysis", that pertains to issues raised by small businesses during the rulemaking process. Specifically, question 7 reads:

- 7) A final regulatory flexibility analysis, which shall include the following;
 - A) A summary of the issues raised by small businesses during the first notice period; and
 - B) A description of actions taken on any alternatives to the proposed rulemaking suggested by small businesses during the first

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

notice period, including reasons for rejecting any alternatives not utilized. (Ill. Rev. Stat. 1985, ch. 127, par. 1005.01(b)).

In response to this question, the Board discussed issues raised by small businesses:

- A) No one who testified or commented specifically identified themselves as a small business representative, although some who commented or testified, such as the Illinois Farm Bureau and Illinois Fertilizer and Chemical Association most likely represent small businesses as well as larger ones.

In its opinions and orders the Board addressed comments made by participants during first notice, as well as those comments and testimony offered during the five days of public hearings held in this docket. The Board reported to JCAR how it addressed the first notice comments by forwarding a copy of the second and first notice opinions, in addition to quoting portions of the second notice opinion in the information submitted pursuant to Section 220.600 (in answer to questions 7 (B) and 9).

The Board addressed the concerns expressed by the small businesses. To the extent that these concerns may be considered "regulatory alternatives designed to minimize the economic impact on small businesses", the Board not only considered some of these "alternatives", but also incorporated some "alternatives" suggested. These changes in response to comments were discussed in answer to question 9 of the Board's second notice submittal at pages 9 and 10, as well as in the second notice opinion at pages 10 and 11. In order to make it as clear as possible that the burden on these small businesses was considered, the Board, in its final opinion and order notes changes it made prior to second notice in certain monitoring and reporting requirements:

In order to strike a balance between lessening the economic burden which may be placed on smaller operators and providing a reasonable degree of assurance that a facility's groundwater protection measures are effective, a semi-annual groundwater monitoring schedule for agricultural facilities is incorporated at Sections 615.207 and 616.208, instead of the quarterly monitoring schedule required by others, where certain conditions are met. Also, the post-closure monitoring requirement for

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

agrichemical facilities at Sections 615.202 and 616.202 is three-years, instead of the five-years associated with other types of regulated facilities. December 6, 1991 Op. at p. 17-18.

The Board also allowed that certain reporting requirements that may be duplicative of requirements under Department of Agriculture's Part 255 rules be satisfied by the Part 255 requirement. The only requirement is that the Agency have access to the records. (Section 615.304(b) discussed above)

What the Board did not do was agree with the alternative of deleting the requirement of groundwater monitoring and Agency oversight, although that alternative was certainly considered by the Board. The Board continues to believe that the clear statutory mandate and the information contained in the record do not allow for exemption of these facilities from the groundwater monitoring requirements contained in the rules.

It is true that in answer to a question contained in the Analysis of Economic and Budgetary Effects Questionnaire the Board answered that it considered one regulatory "alternative". Since previous questions covered responses to comments, this question was read as asking whether any alternatives to the entire rulemaking package were considered. The answer to that question is one. The Board regrets any confusion which its answer to this question may have caused.

For the reasons outlined above, the Board considered regulatory alternatives designed to minimize the economic impact on small businesses identified, and incorporated those alternatives to the extent possible, consistent with the statutory mandate. In addition, as was stated in the Board's opinion at second notice and in today's final opinion:

The Board does recognize that there may be individual cases where the economic burden is abnormally heavy and reminds such parties of the adjusted standard process before the Board (pursuant to Title VII of the Act) and, in some cases, the certification of minimal hazard through the Agency (pursuant to Section 14.5 of the Act).

Also, any person may file a petition for amendment to Board regulations (Section 28 of the Act).

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

Conclusion

The Board does not take a JCAR Objection lightly.

Section 7.06 of the IAPA sets forth the universe of possible Board responses. Neither modification nor withdrawal of the rules appears to be an appropriate response to the Objection, given the mandate of Section 14.4 of the Environmental Protection Act and the Board's belief that it has proposed the only environmentally necessary option available to it based upon the record before it. Under these circumstances, the Board believes its only recourse is to refuse to modify or withdraw these proposed rules.

Notwithstanding its response to the Objection, the Board wishes to thank JCAR and its staff for their efforts and assistance in this review process.

IT IS SO ORDERED.

Board Member J. Theodore Meyer concurred.

(signature in original)

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
December 6, 1991

IN THE MATTER OF:

GROUNDWATER PROTECTION:
REGULATIONS FOR EXISTING AND
NEW ACTIVITIES WITHIN SETBACK
ZONES AND REGULATED RECHARGE
AREAS (35 ILL.ADM.CODE 601,
615, 616, and 617)
("TECHNICAL STANDARDS")

RES 91-1
R89-5
(Rulemaking)

CONCURRING OPINION (by J. Theodore Meyer):

I fully agree with the action taken by the Board in refusing to withdraw or modify its groundwater protection rules in response to the objection by the Joint Committee on Administrative Rules (JCAR). I concur only to express some additional thoughts.

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

While I served as a state representative, I voted for the creation of JCAR. I continue to believe that JCAR serves an important purpose in reviewing the rules of administrative agencies. As a former legislator, I believe that I understand how legislators think, and their experiences in dealing with differing interest groups. A legislator is able to base his or her decision on anything he or she believes is relevant. However, I must point out that the Board has a much narrower path to follow in making its decisions. Pursuant to the Environmental Protection Act (Act) and the Illinois Administrative Procedure Act (APA), this Board can only base its rulemaking decisions on information in the record of the rulemaking. The information in that record must be obtained through the notice, comment, and hearing process established by the Act and the APA. If certain information is not properly placed in the record, the Board cannot base its decision on that information, regardless of the content of that information. These are the rules which the legislature has established, and the Board must follow them.

Finally, I reiterate the Board's position that these rules are consistent with the statutory mandate of the Groundwater Protection Act.

For these reasons, I concur.

(signature in original)
J. Theodore Meyer
Board Member

POLLUTION CONTROL BOARD

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

- 1) The Heading of the Part: New Activities In A Setback Zone or Regulated Recharge Area

- 2) Code Citation: 35 Ill. Adm. Code 616

- 3) Section Numbers:

616.101	Refusal
616.102	Refusal
616.104	Refusal
616.105	Refusal
616.201	Refusal
616.202	Refusal
616.203	Refusal
616.204	Refusal
616.205	Refusal
616.206	Refusal
616.207	Refusal
616.208	Refusal
616.209	Refusal
616.210	Refusal
616.211	Refusal
616.301	Refusal
616.302	Refusal
616.303	Refusal
616.304	Refusal
616.305	Refusal
616.306	Refusal
616.307	Refusal
616.401	Refusal
616.402	Refusal
616.421	Refusal
616.422	Refusal
616.423	Refusal
616.424	Refusal
616.425	Refusal
616.441	Refusal
616.442	Refusal
616.443	Refusal
616.444	Refusal
616.445	Refusal
616.446	Refusal
616.447	Refusal
616.461	Refusal
616.462	Refusal
616.463	Refusal

616.464	Refusal
616.501	Refusal
616.502	Refusal
616.601	Refusal
616.602	Refusal
616.603	Refusal
616.604	Refusal
616.605	Refusal
616.621	Refusal
616.622	Refusal
616.623	Refusal
616.624	Refusal
616.625	Refusal
616.701	Refusal
616.702	Refusal
616.703	Refusal
616.704	Refusal
616.705	Refusal
616.721	Refusal
616.722	Refusal
616.723	Refusal
616.724	Refusal
616.725	Refusal

- 4) Date Notice of Proposed Rules Published in the Register (if applicable):
July 5, 1991 15 Ill. Reg. 9836
 (issue date)
- 5) Date JCAR Statement of Objection published in the Register:
December 6, 1991 15 Ill. Reg. 17793
 (issue date)
- 6) Summary of Action Taken by the Agency:

The text of the resolution that the Board adopted in response to the JCAR objection is as follows:

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

The text of the objection is the same for parts 601, 615, 616, and 617.

Board Response

The Board does not take a JCAR Objection lightly.

The Board first observes that the issues raised by the objection really only pertain to the proposed new rules contained in parts 615 and 616. The amendments to part 601 only contain a change in the definition of the term "groundwater" by adding the statutory definition of the term. Proposed new part 617 was created as a "shell" for the placement of regulated recharge area determinations when these are promulgated. To date, no petitions for regulated recharge area determinations have been submitted to the Board. Therefore, the part 601 and 617 actions are merely procedural rather than substantive actions, and consequently do not involve economic issues. However, since JCAR objected generally to all four parts, the Board's response includes all four parts.

Undue Burden

The JCAR objection contains two issues. The first concerns the proposed rules as part of a groundwater protection program, that, as JCAR believes, creates an undue burden for certain small businesses.

The Board regulations follow the directives in the Environmental Protection Act, Ill. Rev. Stat. 111 1/2, par. 1001 et seq. ("Act"), specifically section 14.4. The legislature specifically mandated that the Board regulate new and existing activities within regulated recharge areas and setback zones as part of the groundwater protection regulations. Some small businesses which store or handle pesticides and fertilizers may be affected by these rules. Pesticide and fertilizer facilities are among the activities explicitly identified by the legislature to be subject to these groundwater protection regulations. The list

1 The "certain small businesses" alluded to by JCAR are, evidently, limited to agricultural facilities.

2 This is an important point. The Board regulations only cover those activities within setback zones and regulated recharge areas, not the entire State.

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

ILLINOIS POLLUTION CONTROL BOARD
December 6, 1991

IN THE MATTER OF:

GROUNDWATER PROTECTION: REGULATIONS FOR
EXISTING AND NEW ACTIVITIES WITHIN SET-
BACK ZONES AND REGULATED RECHARGE AREAS
(35 ILL. ADM. CODE 601, 615, 616 and 617)
("TECHNICAL STANDARDS")

RES 91-1
R89-5
(Rulemaking)

RESOLUTION AND ORDER OF THE BOARD (by R. C. Flemal):

In Docket R89-5, the Pollution Control Board ("Board") proposed new rules in 35 Ill. Adm. Code Parts 615, 616, and 617, and amendments at 35 Ill. Adm. Code 601. The proposal was considered by the Joint Committee on Administrative Rules ("JCAR") at its November 19, 1991 meeting. JCAR issued an objection to each of the proposed rules and amendments in this docket.

This resolution and order constitutes the Board's formal response to JCAR's November 19, 1991 objection to 35 Ill. Adm. Code 615, 616, 617, and 601. Section 7.06(c) of the Administrative Procedure Act ("IAPA") requires that an agency respond within 90 days of an objection. Section 7.06(c) of the IAPA states that an agency may, (1) modify the proposed rule or amendment to meet JCAR's objection, (2) withdraw the proposed rule or amendment in its entirety, or (3) refuse to modify or withdraw the proposed rule or amendment. For the reasons set forth below, the Board hereby refuses to modify or withdraw the proposed rules.

The Objection

The JCAR statement of objection is as follows:

The Committee objects to the rules of the PCB [cite to the specific proposed rule or amendment] because the rules are part of a groundwater protection program that creates undo (sic) burden for certain small businesses. Additionally, according to information submitted by the Board at 2nd Notice, the Board failed to consider any regulatory alternatives designed to minimize the economic impact on small businesses, as required by Section 7.06(a) of the IAPA.

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

of activities is found at Section 14.4(a)(3) of the Act, where the Agency is to propose regulations:

prescribing standards and requirements for the following activities; . . . storage and related handling of pesticides and fertilizers at a facility for the purpose of commercial application . . .

In Section 14.4(b), the Board is to include in these regulations for existing activities:

1. appropriate programs for water quality monitoring;
 2. reporting, recordkeeping and remedial response measures;
 3. appropriate technology-based measures for pollution control; and
 4. requirements for closure or discontinuance of operations;
- and for new activities, pursuant to Section 14.4(d):
1. appropriate programs for water quality monitoring, including, where appropriate, notification limitations to trigger preventive response activities;
 2. design practices and technology-based measures appropriate for minimizing the potential for groundwater contamination;
 3. reporting, recordkeeping and remedial response measures; and
 4. requirements for closure or discontinuance of operations.

This is not a general mandate; it includes specific directives with which the Board is attempting to comply. Therefore, the Board believes that any burden which may be placed on any businesses as a result of these rules is directly related to the groundwater protection program embodied in the specific

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

statutory mandate, and was considered by the legislature when adopting the Groundwater Protection Act.

The Board, in attempting to comply with the mandate, does not believe that its rules create a burden due to duplication of regulation. The Board addressed this issue as it pertained to the Department of Agriculture's Part 255 rules. On page 15 of the June 20, 1991 Board Opinion and Order, the Board found that the Part 255 rules did not cover all matters addressed in the statutory mandate to the Board, and, based on the extensive record before the Board, concluded that there is a need for groundwater monitoring, closure and post-closure care, reporting and recordkeeping, and remedial response measures.

Prior to submission of Second Notice, the Board again visited this issue, addressing additional comment. In an effort to deal with and eliminate any regulatory overlap between these rules and the Part 255 rules in response to comments, the Board added subsection (b) to Section 615.304 and Section 616.304 that require a survey plat. Subsection (b) would allow that information requirements under any other state or Federal program, which contain the same information required by the Board regulations, may be used to satisfy the Board requirement. The Board is desirous of avoiding duplication of regulatory requirements in all instances.

Furthermore, the Board is unaware of any similar groundwater monitoring requirements under federal programs for pesticides and fertilizers pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 USCA Sec. 136 et seq.).

In summary, the Board believes that any regulatory burden is due to the direct statutory mandate contained in the Groundwater Protection Act amendments to the Environmental Protection Act.

Consideration of Regulatory Alternatives

For the second part of the objection, JCAR believes that the Board's second notice submittal indicates that the Board failed to consider any regulatory alternatives designed to minimize the economic impact on small businesses, as required by Section 7.06 of the IAPA. Under Section 7.06, JCAR may examine proposed rules and amendments, and, in addition:

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

[JCAR] may consider . . . whether the rule is designed to minimize the economic impact on small businesses.

At second notice, the Board submitted information required by JCAR rules 35 Ill. Adm. Code 220.600, the State Mandates Questionnaire, and the Analysis of Economic and Budgetary Effects Questionnaire, as well as copies of the Board's first and second notice opinions and orders.

For the information required by JCAR rules, question 7 contains a "final regulatory flexibility analysis", that pertains to issues raised by small businesses during the rulemaking process. Specifically, question 7 reads:

- 7) A final regulatory flexibility analysis, which shall include the following;
- A) A summary of the issues raised by small businesses during the first notice period; and
- B) A description of actions taken on any alternatives to the proposed rulemaking suggested by small businesses during the first notice period, including reasons for rejecting any alternatives not utilized. (Ill. Rev. Stat. 1985, ch. 127, par. 1005.01(b)).

In response to this question, the Board discussed issues raised by small businesses:

- A) No one who testified or commented specifically identified themselves as a small business representative, although some who commented or testified, such as the Illinois Farm Bureau and Illinois Fertilizer and Chemical Association most likely represent small businesses as well as larger ones.

In its opinions and orders the Board addressed comments made by participants during first notice, as well as those comments and testimony offered during the five days of public hearings held in this docket. The Board reported to JCAR how it addressed the first notice comments by forwarding a copy of the second and first notice opinions, in addition to quoting portions of the second notice opinion in the information submitted pursuant to Section 220.600 (in answer to questions 7 (B) and 9).

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

The Board addressed the concerns expressed by the small businesses. To the extent that these concerns may be considered "regulatory alternatives designed to minimize the economic impact on small businesses", the Board not only considered some of these "alternatives", but also incorporated some "alternatives" suggested. These changes in response to comments were discussed in answer to question 9 of the Board's second notice submittal at pages 9 and 10, as well as in the second notice opinion at pages 10 and 11. In order to make it as clear as possible that the burden on these small businesses was considered, the Board, in its final opinion and order notes changes it made prior to second notice in certain monitoring and reporting requirements:

In order to strike a balance between lessening the economic burden which may be placed on smaller operators and providing a reasonable degree of assurance that a facility's groundwater protection measures are effective, a semi-annual groundwater monitoring schedule for agricultural facilities is incorporated at Sections 615.207 and 616.208, instead of the quarterly monitoring schedule required by others, where certain conditions are met. Also, the post-closure monitoring requirement for agricultural facilities at Sections 615.202 and 616.202 is three-years, instead of the five-years associated with other types of regulated facilities. December 6, 1991 Op. at p. 17-18.

The Board also allowed that certain reporting requirements that may be duplicative of requirements under Department of Agriculture's Part 255 rules be satisfied by the Part 255 requirement. The only requirement is that the Agency have access to the records. (Section 615.304(b) discussed above)

What the Board did not do was agree with the alternative of deleting the requirement of groundwater monitoring and Agency oversight, although that alternative was certainly considered by the Board. The Board continues to believe that the clear statutory mandate and the information contained in the record do not allow for exemption of these facilities from the groundwater monitoring requirements contained in the rules.

It is true that in answer to a question contained in the Analysis of Economic and Budgetary Effects Questionnaire the Board answered that it considered one regulatory "alternative". Since previous questions covered responses to comments, this question was

ILLINOIS REGISTER
POLLUTION CONTROL BOARD

**NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES**

read as asking whether any alternatives to the entire rulemaking package were considered. The answer to that question is one. The Board regrets any confusion which its answer to this question may have caused.

For the reasons outlined above, the Board considered regulatory alternatives designed to minimize the economic impact on small businesses identified, and incorporated those alternatives to the extent possible, consistent with the statutory mandate. In addition, as was stated in the Board's opinion at second notice and in today's final opinion:

The Board does recognize that there may be individual cases where the economic burden is abnormally heavy and reminds such parties of the adjusted standard process before the Board (pursuant to Title VII of the Act) and, in some cases, the certification of minimal hazard through the Agency (pursuant to Section 14.5 of the Act).

Also, any person may file a petition for amendment to Board regulations (Section 28 of the Act).

Conclusion

The Board does not take a JCAR Objection lightly.

Section 7.06 of the IAPA sets forth the universe of possible Board responses. Neither modification nor withdrawal of the rules appears to be an appropriate response to the Objection, given the mandate of Section 14.4 of the Environmental Protection Act and the Board's belief that it has proposed the only environmentally necessary option available to it based upon the record before it. Under these circumstances, the Board believes its only recourse is to refuse to modify or withdraw these proposed rules.

Notwithstanding its response to the Objection, the Board wishes to thank JCAR and its staff for their efforts and assistance in this review process.

IT IS SO ORDERED.

Board Member J. Theodore Meyer concurred.

[signature in original]
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

**NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES**

ILLINOIS POLLUTION CONTROL BOARD
December 6, 1991

IN THE MATTER OF:

GROUNDWATER PROTECTION:)
REGULATIONS FOR EXISTING AND)
NEW ACTIVITIES WITHIN SETBACK)
ZONES AND REGULATED RECHARGE)
AREAS (35 ILL.ADM.CODE 601,)
615, 616, and 617))
("TECHNICAL STANDARDS"))

RES 91-1
R89-5
(Rulemaking)

CONCURRING OPINION (by J. Theodore Meyer):

I fully agree with the action taken by the Board in refusing to withdraw or modify its groundwater protection rules in response to the objection by the Joint Committee on Administrative Rules (JCAR). I concur only to express some additional thoughts.

While I served as a state representative, I voted for the creation of JCAR. I continue to believe that JCAR serves an important purpose in reviewing the rules of administrative agencies. As a former legislator, I believe that I understand how legislators think, and their experiences in dealing with differing interest groups. A legislator is able to base his or her decision on anything he or she believes is relevant. However, I must point out that the Board has a much narrower path to follow in making its decisions. Pursuant to the Environmental Protection Act (Act) and the Illinois Administrative Procedure Act (APA), this Board can only base its rulemaking decisions on information in the record of the rulemaking. The information in that record must be obtained through the notice, comment, and hearing process established by the Act and the APA. If certain information is not properly placed in the record, the Board cannot base its decision on that information, regardless of the content of that information. These are the rules which the legislature has established, and the Board must follow them.

Finally, I reiterate the Board's position that these rules are consistent with the statutory mandate of the Groundwater Protection Act.

For these reasons, I concur.

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

This resolution and order constitutes the Board's formal response to JCAR's November 19, 1991 objection to 35 Ill. Adm. Code 615, 616, 617, and 601. Section 7.06(c) of the Administrative Procedure Act ("IAPA") requires that an agency respond within 90 days of an objection. Section 7.06(c) of the IAPA states that an agency may, (1) modify the proposed rule or amendment to meet JCAR's objection, (2) withdraw the proposed rule or amendment in its entirety, or (3) refuse to modify or withdraw the proposed rule or amendment. For the reasons set forth below, the Board hereby refuses to modify or withdraw the proposed rules.

The Objection

The JCAR statement of objection is as follows:

The Committee objects to the rules of the PCB [cite to the specific proposed rule or amendment] because the rules are part of a groundwater protection program that creates undo (sic) burden for certain small businesses. Additionally, according to information submitted by the Board at 2nd Notice, the Board failed to consider any regulatory alternatives designed to minimize the economic impact on small businesses, as required by Section 7.06(a) of the IAPA.

The text of the objection is the same for parts 601, 615, 616, and 617.

Board Response

The Board does not take a JCAR Objection lightly.

The Board first observes that the issues raised by the objection really only pertain to the proposed new rules contained in parts 615 and 616. The amendments to part 601 only contain a change in the definition of the term "groundwater" by adding the statutory definition of the term. Proposed new part 617 was created as a "shell" for the placement of regulated recharge area determinations when these are promulgated. To date, no petitions for regulated recharge area determinations have been submitted to the Board. Therefore, the part 601 and 617 actions are merely procedural rather than substantive actions, and consequently do not involve economic issues. However, since JCAR objected generally to all four parts, the Board's response includes all four parts.

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

Undue Burden

The JCAR objection contains two issues. The first concerns the proposed rules as part of a groundwater protection program, that, as JCAR believes, creates an undue burden for certain small businesses¹.

The Board regulations follow the directives in the Environmental Protection Act, Ill. Rev. Stat. 111 1/2, par. 1001 et seq. ("Act"), specifically section 14.4. The legislature specifically mandated that the Board regulate new and existing activities within regulated recharge areas and setback zones as part of the groundwater protection regulations². Some small businesses which store or handle pesticides and fertilizers may be affected by these rules. Pesticide and fertilizer facilities are among the activities explicitly identified by the legislature to be subject to these groundwater protection regulations. The list of activities is found at Section 14.4(a)(3) of the Act, where the Agency is to propose regulations:

prescribing standards and requirements for the following activities; . . . storage and related handling of pesticides and fertilizers at a facility for the purpose of commercial application . . .

In Section 14.4(b), the Board is to include in these regulations for existing activities:

1. appropriate programs for water quality monitoring;
2. reporting, recordkeeping and remedial response measures;
3. appropriate technology-based measures for pollution control; and

¹ The "certain small businesses" alluded to by JCAR are, evidently, limited to agrichemical facilities.

² This is an important point. The Board regulations only cover those activities within setback zones and regulated recharge areas, not the entire State.

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

4. requirements for closure or discontinuance of operations;

and for new activities, pursuant to Section 14.4(d):

1. appropriate programs for water quality monitoring, including, where appropriate, notification limitations to trigger preventive response activities;
2. design practices and technology-based measures appropriate for minimizing the potential for groundwater contamination;
3. reporting, recordkeeping and remedial response measures; and
4. requirements for closure or discontinuance of operations.

This is not a general mandate; it includes specific directives with which the Board is attempting to comply. Therefore, the Board believes that any burden which may be placed on any businesses as a result of these rules is directly related to the groundwater protection program embodied in the specific statutory mandate, and was considered by the legislature when adopting the Groundwater Protection Act.

The Board, in attempting to comply with the mandate, does not believe that its rules create a burden due to duplication of regulation. The Board addressed this issue as it pertained to the Department of Agriculture's Part 255 rules. On page 15 of the June 20, 1991 Board Opinion and Order, the Board found that the Part 255 rules did not cover all matters addressed in the statutory mandate to the Board, and, based on the extensive record before the Board, concluded that there is a need for groundwater monitoring, closure and post-closure care, reporting and recordkeeping, and remedial response measures.

Prior to submission of Second Notice, the Board again visited this issue, addressing additional comment. In an effort to deal with and eliminate any regulatory overlap between these rules and the Part 255 rules in response to comments, the Board added subsection (b) to Section 615.304 and Section 616.304 that require a survey plat. Subsection (b) would allow that information requirements under any other state or Federal program, which

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

contain the same information required by the Board regulations, may be used to satisfy the Board requirement. The Board is desirous of avoiding duplication of regulatory requirements in all instances.

Furthermore, the Board is unaware of any similar groundwater monitoring requirements under federal programs for pesticides and fertilizers pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 USCA Sec. 136 et seq.).

In summary, the Board believes that any regulatory burden is due to the direct statutory mandate contained in the Groundwater Protection Act amendments to the Environmental Protection Act.

Consideration of Regulatory Alternatives

For the second part of the objection, JCAR believes that the Board's second notice submittal indicates that the Board failed to consider any regulatory alternatives designed to minimize the economic impact on small businesses, as required by Section 7.06 of the IAPA. Under Section 7.06, JCAR may examine proposed rules and amendments, and, in addition:

[JCAR] may consider . . . whether the rule is designed to minimize the economic impact on small businesses.

At second notice, the Board submitted information required by JCAR rules 35 Ill. Adm. Code 220.600, the State Mandates Questionnaire, and the Analysis of Economic and Budgetary Effects Questionnaire, as well as copies of the Board's first and second notice opinions and orders.

For the information required by JCAR rules, question 7 contains a "final regulatory flexibility analysis", that pertains to issues raised by small businesses during the rulemaking process. Specifically, question 7 reads:

- 7) A final regulatory flexibility analysis, which shall include the following;
 - A) A summary of the issues raised by small businesses during the first notice period; and
 - B) A description of actions taken on any alternatives to the proposed rulemaking suggested by small businesses during the first

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

notice period, including reasons for rejecting any alternatives not utilized. (Ill. Rev. Stat. 1985, ch. 127, par. 1005.01(b)).

In response to this question, the Board discussed issues raised by small businesses:

- A) No one who testified or commented specifically identified themselves as a small business representative, although some who commented or testified, such as the Illinois Farm Bureau and Illinois Fertilizer and Chemical Association most likely represent small businesses as well as larger ones.

In its opinions and orders the Board addressed comments made by participants during first notice, as well as those comments and testimony offered during the five days of public hearings held in this docket. The Board reported to JCAR how it addressed the first notice comments by forwarding a copy of the second and first notice opinions, in addition to quoting portions of the second notice opinion in the information submitted pursuant to Section 220.600 (in answer to questions 7 (B) and 9).

The Board addressed the concerns expressed by the small businesses. To the extent that these concerns may be considered "regulatory alternatives designed to minimize the economic impact on small businesses", the Board not only considered some of these "alternatives", but also incorporated some "alternatives" suggested. These changes in response to comments were discussed in answer to question 9 of the Board's second notice submittal at pages 9 and 10, as well as in the second notice opinion at pages 10 and 11. In order to make it as clear as possible that the burden on these small businesses was considered, the Board, in its final opinion and order notes changes it made prior to second notice in certain monitoring and reporting requirements:

In order to strike a balance between lessening the economic burden which may be placed on smaller operators and providing a reasonable degree of assurance that a facility's groundwater protection measures are effective, a semi-annual groundwater monitoring schedule for agricultural facilities is incorporated at Sections 615.207 and 616.208, instead of the quarterly monitoring schedule required by others, where certain conditions are met. Also, the post-closure monitoring requirement for

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

agricultural facilities at Sections 615.202 and 616.202 is three-years, instead of the five-years associated with other types of regulated facilities. December 6, 1991 Op. at p. 17-18.

The Board also allowed that certain reporting requirements that may be duplicative of requirements under Department of Agriculture's Part 255 rules be satisfied by the Part 255 requirement. The only requirement is that the Agency have access to the records. (Section 615.304(b) discussed above)

What the Board did not do was agree with the alternative of deleting the requirement of groundwater monitoring and Agency oversight, although that alternative was certainly considered by the Board. The Board continues to believe that the clear statutory mandate and the information contained in the record do not allow for exemption of these facilities from the groundwater monitoring requirements contained in the rules.

It is true that in answer to a question contained in the Analysis of Economic and Budgetary Effects Questionnaire the Board answered that it considered one regulatory "alternative". Since previous questions covered responses to comments, this question was read as asking whether any alternatives to the entire rulemaking package were considered. The answer to that question is one. The Board regrets any confusion which its answer to this question may have caused.

For the reasons outlined above, the Board considered regulatory alternatives designed to minimize the economic impact on small businesses identified, and incorporated those alternatives to the extent possible, consistent with the statutory mandate. In addition, as was stated in the Board's opinion at second notice and in today's final opinion:

The Board does recognize that there may be individual cases where the economic burden is abnormally heavy and reminds such parties of the adjusted standard process before the Board (pursuant to Title VII of the Act) and, in some cases, the certification of minimal hazard through the Agency (pursuant to Section 14.5 of the Act).

Also, any person may file a petition for amendment to Board regulations (Section 28 of the Act).

ILLINOIS REGISTER
POLLUTION CONTROL BOARD
NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

Conclusion

The Board does not take a JCAR Objection lightly.

Section 7.06 of the IAPA sets forth the universe of possible Board responses. Neither modification nor withdrawal of the rules appears to be an appropriate response to the Objection, given the mandate of Section 14.4 of the Environmental Protection Act and the Board's belief that it has proposed the only environmentally necessary option available to it based upon the record before it. Under these circumstances, the Board believes its only recourse is to refuse to modify or withdraw these proposed rules.

Notwithstanding its response to the Objection, the Board wishes to thank JCAR and its staff for their efforts and assistance in this review process.

IT IS SO ORDERED.

Board Member J. Theodore Meyer concurred.

Signature in original
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
December 6, 1991

IN THE MATTER OF:

GROUNDWATER PROTECTION:
REGULATIONS FOR EXISTING AND
NEW ACTIVITIES WITHIN SETBACK
ZONES AND REGULATED RECHARGE
AREAS (35 ILL.ADM.CODE 601,
615, 616, and 617)
("TECHNICAL STANDARDS")
RES 91-1
R89-5
(Rulemaking)

CONCURRING OPINION (by J. Theodore Meyer):

I fully agree with the action taken by the Board in refusing to withdraw or modify its groundwater protection rules in response to the objection by the Joint Committee on Administrative Rules (JCAR). I concur only to express some additional thoughts.

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

While I served as a state representative, I voted for the creation of JCAR. I continue to believe that JCAR serves an important purpose in reviewing the rules of administrative agencies. As a former legislator, I believe that I understand how legislators think, and their experiences in dealing with differing interest groups. A legislator is able to base his or her decision on anything he or she believes is relevant. However, I must point out that the Board has a much narrower path to follow in making its decisions. Pursuant to the Environmental Protection Act (Act) and the Illinois Administrative Procedure Act (APA), this Board can only base its rulemaking decisions on information in the record of the rulemaking. The information in that record must be obtained through the notice, comment, and hearing process established by the Act and the APA. If certain information is not properly placed in the record, the Board cannot base its decision on that information, regardless of the content of that information. These are the rules which the legislature has established, and the Board must follow them.

Finally, I reiterate the Board's position that these rules are consistent with the statutory mandate of the Groundwater Protection Act.

For these reasons, I concur.

Signature in original
J. Theodore Meyer
Board Member

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

FILING PROHIBITION

DEPARTMENT OF INSURANCE

Heading of Part: Minimum Standards for Individual and Group Medicare Supplement Insurance

Code Citation: 50 Ill. Adm. Code 2008

Date Originally Published in Illinois Register: 10/18/91

15 Ill. Reg. 14859

At its meeting on January 8, 1992 the Joint Committee on Administrative Rules voted to prohibit filing of the above proposed rulemaking with the Secretary of State. The Committee found that the adoption of these rules would constitute a serious threat to the public interest and welfare. The reason for the prohibition is as follows:

The proposed rule unlawfully discriminates against the elderly citizens of this State by severely limiting the commission earned on the sale of a Medicare supplement insurance policy, potentially resulting in restricted availability of these policies to persons receiving Medicare. The Department's decision to adopt NAIC's model standards, which are more restrictive than the requirements of OBRA, places a hardship on insurance agents by further restricting their earning capacity. The decrease in agent earnings will result in fewer agents handling Medicare supplemental insurance. If insurance agents are no longer in this market, Medicare supplement insurance will be available only through mail order. The elderly will be denied the personal assistance that the insurance agent now offers.

The proposed rules may not be filed with the Secretary of State or enforced by the Department for any reason for 180 days following receipt of this certification and statement by the Secretary of State.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SUSPENSION OF EMERGENCY RULES

DEPARTMENT ON AGING

Heading of Part: Community Care Program

Code Citation: 89 Ill. Adm. Code 240

Date Related Proposed Rulemaking Published in Illinois Register:

December 2, 1991
15 Ill. Reg. 17007

Date Published in Illinois Register:

December 2, 1991
15 Ill. Reg. 17398

At its meeting on January 8, 1992, the Joint Committee on Administrative Rules voted to suspend the above emergency rulemaking, and to notify the Secretary of State of the suspension of the emergency rulemaking. The Committee found that the continued enforcement of this rulemaking would constitute a serious threat to the public interest and welfare and was also contrary to legislative intent. The reasons for the suspension are as follows:

1) This rulemaking could represent a serious threat to the public safety and welfare. Most people receiving services under the CCP are already hard pressed financially and rely on the CCP for providing critically needed services. The services provided under the CCP have allowed many of the State's elderly to avoid institutionalization, an alternative which would be much costlier for the State. Services provided under the CCP include:

- a) teaching of proper meal preparation, housekeeping skills and general maintenance;
- b) assistance in handling the client's finances;
- c) assistance with personal care, such as bathing, shaving, etc.;
- d) providing transportation to medical facilities;
- e) assisting with and monitoring the client's use of medications;
- f) providing nursing care;
- h) providing a daily meal;
- i) rehabilitative services such as physical therapy, speech and hearing therapy, etc.;
- j) skilled nursing services such as catheter installation; and
- k) information and referral services.

The Committee determined that this rulemaking could have the effect of forcing elderly persons into nursing homes or other institutions, with a probable adverse effect on their quality of life. Reduced

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSUSPENSION OF EMERGENCY RULESDEPARTMENT ON AGING
(Continued Page 2)

adult day care services could result in other family members having to make a choice between maintaining a job or reverting to public assistance to give constant care within the home to an elderly relative. In addition, the cost of providing services under the CCP are likely to be significantly less than the cost of placing elderly persons in nursing homes or forcing them to apply for more costly benefits from the Department of Public Aid.

- 2) This emergency rulemaking contains policy contrary to that previously considered and adopted by the General Assembly. During 1991 budget negotiations, the General Assembly determined that the continuation of home services to avoid institutionalization is a preventative program that should be continued, both for the benefit of the home services client and ultimate cost effectiveness. The establishment of community care as a priority was reflected in the fact that the General Assembly increased funding for these programs at a time when funding for most human services programs was being decreased.

The suspended emergency rules may not be enforced by the Department on Aging for any reason, nor may the Department file with the Secretary of State any rule having substantially the same purpose and effect as these suspended rules for at least 180 days following receipt of this certification and statement by the Secretary of State.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION TO EMERGENCY RULEMAKING

DEPARTMENT OF STATE POLICE

Heading of Part: Firearm Transfer Inquiry Program

Code Citation: 20 Ill Adm Code 1235

Date Originally Published in Illinois Register: 12/6/91
15 Ill. Reg. 17785

At its meeting on January 8, 1992, the Joint Committee on Administrative Rules objected to the above emergency rulemaking. Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute a refusal to amend or repeal the rule.

The specific objection is as follows:

The Committee objects to the rulemaking entitled Firearm Transfer Inquiry Program because the Department has reportedly implemented policy not in rules by requiring the dealers to report numerous details beyond their identification numbers and the transferee's FOID card number, the only details specified in the rulemaking.

Furthermore, because the rules do not clarify for gun dealers requirements concerning the sale of used guns, the rules are vague, in violation of Section 220.900(a)(2)(E) of the IAPA.

DEPARTMENT OF LABOR

NOTICE OF PUBLIC HEARING ON PROPOSED RULES

- 1) Heading of the Part: Balloon Dart Game Permit Act
- 2) Code Citation: 56 Ill. Adm. Code 1700
- 3) Register Citation to Notice of Proposed Rules:
16 Ill. Reg. 1469; January 24, 1992
- 4) Date, Time and Location of Public Hearing: February 27, 1992, 2 p.m., Illinois Department of Labor, #1 W. Old State Capitol Plaza, Room 300, Springfield, Illinois 62701

Written comments may be submitted within 45 days of the publication of this notice. All correspondence should be addressed to:

Carl Kimble, Chief Inspector
Carnival & Amusement Ride Division
Illinois Department of Labor
#1 W. Old State Capitol Plaza, Room 300
Springfield, Illinois, 62701
Telephone: (217) 782-9347

ILLINOIS ATTORNEY GENERAL

NOTICE OF PUBLIC INFORMATION

Proposed Consent Decree pursuant to the Resource Conservation and Recovery Act ("RCRA"); the Comprehensive Environmental Response, Compensation, and Liability Act; and the Illinois Environmental Protection Act; Kilbourn Avenue Site.

AGENCY: Illinois Attorney General and Illinois Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: The Illinois Attorney General at the request of the Illinois Environmental Protection Agency (IEPA) is proposing to enter an interim order on consent which was lodged in the United States District Court for the Northern District of Illinois, Eastern Division. This proposed interim order or consent is intended to resolve the liability of The Valspar Corporation and Howard R. Conant for costs of a site characterization study and remedial work at the Kilbourn Avenue site in Chicago, Illinois. Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), requires that notice of proposed settlements be made public. This notice seeks to elicit public comments to the Kilbourn Avenue site interim order on consent.

DATE: Comments must be received on or before February 24, 1992.

ADDRESS: Comments should be addressed to William D. Seith, Deputy Chief, Environmental Control Division, Assistant Attorney General, Illinois Attorney General's Office, 100 W. Randolph, 12th Floor, Chicago, Illinois 60601, and should refer to the Kilbourn Avenue site in Chicago, Illinois.

SUPPLEMENTAL INFORMATION: In accordance to Section 122(i)(1) of CERCLA, notice is hereby given of a proposed interim order on consent that was lodged in the U.S. District Court concerning the Kilbourn Avenue site located at 1330 S. Kilbourn Avenue, Chicago, Illinois. The settlement resolves a complaint which was filed in U.S. District Court on June 7, 1991, Civil Action No. 89 C 9068, for violations of the Illinois Environmental Protection Act (Act), RCRA, and claims arising from Section 107 of CERCLA and Section 22.2 of the Act. The interim order on consent requires The Valspar Corporation and Howard R. Conant to conduct a site characterization study at the site and perform remedial work, is warranted.

ILLINOIS ATTORNEY GENERAL

NOTICE OF PUBLIC INFORMATION

The State of Illinois may withdraw its consent if comments received disclose facts which indicate that the consent decree is inappropriate, improper, or inadequate. For thirty (30) days following the date of publication of the notice, the Illinois Attorney General will receive written comments relating to the interim order on consent.

A copy of the proposed interim order on consent may be obtained from the Illinois Attorney General's Office. A copy of the proposed order on consent can be found at the Illinois Attorney General's office located at 100 W. Randolph Street, 12th Floor, Chicago, Illinois 60601, the Federal Court House, Dirksen Federal Building, 219 S. Dearborn Street, Chicago, Illinois 60604, and the Chicago Public Library, Harold Washington Library Center, Government Documents Department, Floor 5-S, 400 S. State Street, Chicago, Illinois, 60605.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish this information in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act Citation: III. Rev. Stat. 1989, ch. 127, par. 2001 (Public Act 82-727, effective November 12, 1991).

2. Summary of information:

Index of Department of Revenue income tax letter rulings issued for the Third Quarter of 1991.

The ruling letters are listed numerically with a brief synopsis under the following subjects:

Addition Modifications
Bond Premium Amortization

Dividends

Interest

Net Operating Loss

Zero Coupon Bonds

Other Rulings

(not included above)

Administrative Review

Allocation

(For Alternative Allocation rulings, see that heading)

Alternative Allocation

Amnesty

Apportionment

Financial Organizations

Insurance Companies

Payroll Factor

Property Factor

Sales Factor

Transportation Services

Other Rulings

(not included above)

Assessment

Bankruptcy

Base Income

(Also See Addition Modifications,

Fringe Benefits, Subtraction

Modifications)

Books and Records

Bulk Sales: See Sales Outside the

Ordinary Course of Business (Bulk

Sales)

Business Income

Capital Gains (Losses)

(Also See Subtraction
Modifications - Valuation
Limitation)

Check Off Funds

Circuit Breaker

Claims for Refund: See Refunds

Collection

Combined Unitary Return

(Also See Unitary)

Commercial Domicile

Compensation

Composite Returns

Confidentiality

Credits

Coal Research and Utilization

Credit for Replacement Tax Paid

Enterprise Zone Investment

Foreign Tax

High Impact Business Investment

Jobs Tax

Replacement Tax Investment

Research and Development

Training Expense

Other Rulings

(not included above)

Deficiencies

Definitions

Domestic International Sales

Corporations (DISC's)

Elections: See Combined Unitary

Return, Extensions, Unitary

Enterprise Zones

(Also See Credits, Subtraction

Modifications)

Erroneous Refund: See Refunds

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Estates
 Estimated Tax
 Exempt Organizations
 Exemptions
 Extensions
 Failure to File: See Penalties
 Failure to Pay: See Penalties
 Farmers: See Estimated Tax
 Federal Returns
 Fiduciaries
 Financial Organizations: See Apportionment
 Foreclosure
 Foreign Sales Corporations (FSC's)
 Foreign Tax: See Credits
 Foreign Trade Zones: See Subtraction Modifications, Credits--Jobs Tax Forms
 Fraud: See Penalties
 Fringe Benefits
 IRC §125 "Cafeteria" Plans
 IRC §401(k) Plans
 Other Rulings (not included above)
 Gain (Loss): See Capital Gains (Losses), Valuation Limitation
 Information Reports
 Insurance Companies: See Apportionment
 Interest Income
 (Also See Addition Modifications, Subtraction Modifications)
 Interest on Refunds and Deficiencies
 IRC §338
 Jeopardy: See Assessment
 Judicial Review
 Liens
 Lottery
 Military
 (Also See Subtraction Modifications)
 Miscellaneous
 Modification Addition: See Addition Modifications
 Modification Subtraction: See Subtraction Modifications
 Mutual Funds: See Subtraction Modifications
 Net Income (Loss) and Net Loss Deduction (ITTA §207)
 (Also See Base Income, Capital Gains (Losses), Combined Unitary Return, Net Operating Loss and Net Operating Loss Deduction)
 Net Operating Loss and Net Operating Loss Deduction
 Nexus: See Public Law 86-272/Nexus
 Nonbusiness Income
 Nonresidents: See Residency/Nonresidency
 Notice and Demand: See Notices
 Notices
 Overpayments: See Refunds
 Partnerships
 Payments:
 (Also See Estimated Tax)
 Payroll Factor: See Apportionment
 Penalties
 Failure to File (ITTA §1001)
 Failure to File Withholding Returns (ITTA §1004)
 Failure to Pay (ITTA §1002)
 Failure to Pay Estimated Tax (ITTA §804)
 Fraud (ITTA §1002)
 Reasonable Cause (ITTA §1001)
 Underpayment of Tax (ITTA §1005)
 Other Rulings (Not included above)
 Pensions
 (Also See Subtraction Modifications)
 Political Organizations
 Property Factor: See Apportionment
 Property Tax: See Subtraction Modifications
 Protest
 Public Law 86-272/Nexus
 Rate of Tax
 Real Estate Investment Trusts
 Reasonable Cause: See Penalties
 Refunds (Also See Subtraction Modifications)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Statute of Limitations
 Other Rulings (not included above)
 Replacement Tax
 (Also See Credits)
 Residency/Nonresidency
 Returns
 (For Combined Unitary Return and Composite Return rulings, see those headings)
 Amended Returns
 Due Dates
 Requirements to File
 Short Period Returns
 Other Rulings (not included above)
 S Corporations
 Sales Factor:
 See Apportionment
 Sales Outside the Ordinary Course of Business (Bulk Sales)
 Seizure
 Separate Accounting: See Alternative Allocation
 Signature
 Specific Accounting
 Statute of Limitations: See Assessment, Collection, Deficiencies, Refunds
 Subchapter (S) Corporations: See S Corporations
 Subpart F Income: See Subtraction Modifications
 Subtraction Modifications
 Enterprise and Foreign Trade Zones
 Illinois Tax Refund
 Interest on U.S. Government Obligations
 Military
 Money Market Mutual Funds
 Qualified Pension Plans
 Real Estate Taxes
 Subpart F Income
 Valuation Limitation
 Other Rulings (not included above)
 Taxability in Other States
 Taxable Year
 Transferees
 (Also See Sales Outside the Ordinary Course of Business (Bulk Sales))
 Transportation Services: See Apportionment
 Trusts
 Unitary
 (Also See Combined Unitary Return)
 U.S. Government Obligations: See Subtraction Modifications
 Valuation Limitation: See Subtraction Modifications
 Voluntary Disclosure Agreements
 Waiver on Assessments: See Assessment
 Withholding
 Employee Benefits
 Exemptions
 Personal Service Contracts (ITTA §1405.2)
 Reciprocal Agreements
 Other Rulings (not included above)

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 25 cents per page for each page over one.

The annual index of income tax letter rulings (all four quarters) is available for \$3.00. A cumulative Income tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for \$4.00.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

3. Name and address of person to contact concerning this information:

Margaret Forth
Legal Division
101 West Jefferson Street
Springfield, Illinois 62794
Telephone: (217) 782-6996

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

ALLOCATION

(For Alternative Allocation Rulings, See That Heading)

- IT 91-212 08/07/1991 Illinois-Michigan Reciprocal Agreement did not apply to self-employment income of Michigan resident priest.
- IT 91-258 09/18/1991 Discusses the Illinois income taxation of professional athletes.
- IT 91-261 09/23/1991 Addresses Illinois income tax obligations for income earned or not derived from an Illinois source; whether foreign service annuities are subject to Illinois income tax; indicates basic exemption each Illinois taxpayer is allowed.

ALTERNATIVE ALLOCATION

- IT 91-197 07/18/91 Letter explaining that separate accounting will not be accepted unless the taxpayer had prior written approval of the Legal Division.
- IT 91-213 08/07/1991 Denial of a petition to use separate accounting.

APPORTIONMENT - FINANCIAL ORGANIZATIONS

- IT 91-195 07/17/91 Corporation whose principal business activity will be to enter into licensing agreements with users of intangibles, including subsidiaries, affiliates, and others is not an investment company or financial organization within the meaning of IITA §1501(a)(8).
- IT 91-215 08/08/1991 Answers several detailed questions regarding Illinois income tax obligations of financial organization(s).

APPORTIONMENT - SALES FACTOR

- IT 91-191 07/15/91 Pursuant to IITA §304(a)(3)(B)(i), a sale of tangible personal property is an Illinois sale if the property is delivered or shipped to a purchaser within Illinois. As an out-of-State job site is involved, delivery of the finished product (coal processing plant) cannot take place in Illinois. There is no Illinois sale, and gross receipts from the contract would not be included in the Illinois sales factor numerator.
- IT 91-218 08/12/1991 Based upon facts presented, Ohio corporation was subject to Illinois income tax.

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

- IT 91-233
- 08/22/1991 Gross receipts from sales of "canned software" were to be included in the taxpayer's Illinois sales factor under facts presented.
- IT 91-266
- 09/25/1991 The direct costs associated with producing the television programs are included in the term "income-producing activity" within the meaning of IITA §304(a)(3)(C)(i), (ii) and 86 Ill. Adm. Code §100.3650(c)(3).
- BASE INCOME
- (Also See Addition Modifications, Fringe Benefits, Subtraction Modifications)
- IT 91-194
- 07/17/91 Because the corporation has no federal taxable income, there would be no Illinois income tax liability based on the facts presented.
- IT 91-204
- 08/01/1991 Discusses the Illinois income tax treatment of a deemed dividend election under Treas. Reg. §1.1502-32(f)(2).
- IT 91-212
- 08/07/1991 Illinois-Michigan Reciprocal Agreement did not apply to self-employment income of Michigan resident priest.
- IT 91-217
- 08/08/1991 Distributions from foreign corporation's non tax-qualified retirement plan were not subtractible for Illinois base income progress.
- IT 91-228
- 08/20/1991 Internal Revenue Code provisions will determine whether commuting benefits are included in AGI and thus, Illinois base income.
- IT 91-229
- 08/20/1991 Discusses the law requiring taxpayers to file Illinois income tax returns as applied to various factual settings.
- IT 91-236
- 08/28/1991 Describes the impact of the U.S. People's Republic of China Tax Treaty on a foreign student's Illinois income tax obligations.

BUSINESS INCOME

- IT 91-190
- 07/15/91 86 Ill. Adm. Code §100.3050 which defines business and nonbusiness income states, in general, that classification of income by labels such as interest, dividends, etc. if of no aid in determining whether income is business or nonbusiness income. Income of any type or class and from any source is business income if it arises from transactions and activity

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

- occurring in the regular course of trade or business operations.
- CAPITAL GAIN (LOSSES)
- (Also See Subtraction Modifications - Valuation Limitation)
- IT 91-265
- 09/24/1991 Questionnaire regarding the applicability of Illinois income taxation.

COMPENSATION

- IT 91-185
- 07/08/91 Compensation for services in Illinois which are incidental to services performed in another state are not subject to Illinois income tax or Illinois withholding. If services are not localized in any state, wages are not paid in Illinois if the base of operations and place from which services are directed and controlled are not in Illinois.

CONFIDENTIALITY

- IT 91-187
- 07/10/91 There is no statutory procedure which authorizes a deduction from an income tax refund based upon the facts presented. Section 917(a) of the IITA provides that information obtained by the Department is confidential except for limited purposes or unless the Department is directed by a proper court order to release information requested.
- IT 91-238
- 09/05/1991 Based on IITA §917 and A.G. Opinion S-1380, the Subpoena cannot be honored because IITA §917(c) allows disclosure to other state governmental agencies only for purpose of enforcing their income tax laws.
- IT 91-257
- 09/18/1991 Illinois Income Tax Act §917(a) prohibits the Department from furnishing the requested information, unless served with a court order.
- IT 91-259
- 09/19/1991 Illinois Income Tax Act §917(a) prohibits the Department from furnishing the requested information, unless served with a court order.
- IT 91-263
- 09/23/1991 Section 917(a) of the Illinois Income Tax Act provides that information received by the Department from income tax returns or enforcement of the (IITA) is confidential and may not be released except pursuant to a court order.

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

CREDITS - FOREIGN TAX

- IT 91-188 07/11/91 Questionnaire regarding Illinois foreign tax credit forwarded.
- IT 91-229 08/20/1991 Discusses the law requiring taxpayers to file Illinois income tax returns as applied to various factual settings.
- IT 91-246 09/11/1991 Discusses the Illinois residency presumption and the foreign tax credit.
- IT 91-255 09/17/1991 Discusses the application of Illinois income tax to income allocated to Illinois from an Iowa land trust.

CREDITS - REPLACEMENT TAX INVESTMENT

- IT 91-223 08/15/1991 Discusses the meaning of the term "retailing" in an agribusiness context.
- IT 91-224 08/15/1991 Discusses whether and under what circumstances construction and paving of a customer parking lot is a qualified expenditure.
- IT 91-253 09/13/1991 Discusses criteria for application of the Replacement Tax Investment Credit. Property used exclusively in manufacturing operations retailing, coal mining or fluoro mining would qualify for the credit. Tangible personalty used partially for personal purposes will not meet the "exclusive use" criteria and therefore will not qualify for the credit. [Correction of Letter Ruling IT 89-307 of December 15, 1989.]

CREDITS - TRAINING EXPENSE

- IT 91-214 08/08/1991 Discusses the training expense credit.
- IT 91-227 08/16/1991 Reference to proposed regulations and prior letter rulings regarding definitions of certain terms used in this credit.
- IT 91-264 09/23/1991 Discusses draft Regulation §100.2904 which pertains to the Employee Training Expense Credit.

ESTATES

EXTENSIONS

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

- IT 91-247 09/11/1991 Discusses Illinois income tax laws as they apply to the net income of a trust or estate.

- IT 91-268 09/25/1991 Discusses the determination of taxable income of an estate for Illinois income tax purposes.

ESTIMATED TAX

- IT 91-235 08/28/1991 Describes test for determining whether individual is a "farmer", for Illinois estimated tax and withholding purposes.

EXEMPT ORGANIZATIONS

- IT 91-186 07/10/91 Section 205(a) of the IITA provides that an organization which is exempt from Federal income tax by reason of §501(a) of the IRC, is exempt from Illinois income tax except for its unrelated business taxable income determined under §512 of the IRC. If the organization has unrelated business taxable income it would file a Form IL-990T.

- IT 91-220 08/14/1991 (IITA) §205 exempts from Illinois income taxation the income of an organization whose income is exempt from federal income tax by reason of Internal Revenue Code (IRC) §501(a). An organization whose income is exempt from federal income tax by reason of IRC §501(a) is subject to Illinois income tax only on its unrelated business taxable income, as determined by IRC §512.

EXEMPTIONS

- IT 91-183 07/01/91 Questionnaire regarding the effect on the Illinois income tax of the Omnibus Budget Reconciliation Act of 1990 (Reduction of itemized deductions and personal exemption allowances) forwarded.

- IT 91-261 09/23/1991 Addresses Illinois income tax obligations for income earned or not derived from an Illinois source; whether foreign service annuities are subject to Illinois income tax; indicates basic exemption each Illinois taxpayer is allowed.

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

IT 91-233 08/22/1991 Gross receipts from sales of "canned software" were to be included in the taxpayer's Illinois sales factor under facts presented.

FOREIGN SALES CORPORATIONS (FSC'S)

IT 91-199 07/22/91 Letter Ruling IT 91-39 modified. Department has determined that the 80/20 rule should not be applied in determining whether an FSC should be included as a member of a unitary group.

FRINGE BENEFITS - IRC §125 "CAFETERIA" PLANS

IT 91-230 08/21/1991 Questionnaire stated that voluntary 401(K) wages and 401(K) employer paid matching funds would not be included in taxable income. Voluntary §125 wages would also not be included in taxable wages.

FRINGE BENEFITS - IRC 401 (K) PLANS

IT 91-230 08/21/1991 Questionnaire stated that voluntary 401(K) wages and 401(K) employer paid matching funds would not be included in taxable income. Voluntary §125 wages would also not be included in taxable wages.

IT 91-252 09/12/1991 Addresses questions raised regarding withholding and reporting requirements on employer-sponsored retirement plan payments.

FRINGE BENEFITS - OTHER RULINGS (NOT INCLUDED ABOVE)

IT 91-265 09/24/1991 Questionnaire regarding the applicability of Illinois income taxation.

INTEREST INCOME

(Also See Addition Modifications, Subtraction Modifications)

IT 91-244 09/11/1991 Discusses the Illinois income taxation of income from bonds of the Illinois Development Finance Authority and income from obligations of the Metropolitan Fair and Exposition Authority and the City of Chicago, Chicago O'Hare International Airport.

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

IT 91-245 09/11/1991 Describes which types of income are exempt from Illinois income tax.

IT 91-265 09/24/1991 Questionnaire regarding the applicability of Illinois income taxation.

INFORMATION REPORTS

IT 91-234 08/28/1991 Details Illinois informational reporting requirements regarding rent, royalty, personal service contract, and prize and award transactions.

IT 91-237 08/28/1991 Illinois performances of foreign choir group appears to be subject to Illinois information reporting requirements.

IT 91-239 09/10/1991 Describes filing procedures and forms for purposes of the informational reporting requirements.

IT 91-252 09/12/1991 Addresses questions raised regarding withholding and reporting requirements on employer-sponsored retirement plan payments.

IT 91-262 09/23/1991 Discusses Illinois information reporting requirements.

INTEREST INCOME

(Also See Addition Modifications, Subtraction Modifications)

IT 91-244 09/11/1991 Discusses the Illinois income taxation of income from bonds of the Illinois Development Finance Authority and income from obligations of the Metropolitan Fair and Exposition Authority and the City of Chicago, Chicago O'Hare International Airport.

INTEREST ON REFUNDS AND DEFICIENCIES

IT 91-182 07/01/91 There is no provision in the ITA for the waiver of interest. Request for a penalty waiver has been referred to the Bureau of Business Registration and Account Maintenance for its consideration.

MISCELLANEOUS

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

IT 91-248 09/11/1991 Contains tables relative to Illinois individual and corporate income tax.

NET INCOME (LOSS) AND NET LOSS DEDUCTION (ITA §207)
(Also See Base Income, Capital Gains (Losses), Combined Unitary Return, Net Operating Loss and Net Operating Loss Deduction, Unitary)

IT 91-203 07/30/91 Carrybacks of net operating losses from before the public sale of Conrail stock are not permitted by or within the contemplation of IRC §172.

IT 91-205 08/01/1991 C corporations may carryforward Net Operating Losses from loss years prior to 12/31/86 even though the corporation was not an Illinois taxpayer in the loss year.

IT 91-222 08/15/1991 Discusses the difference between Illinois net losses under IITA §207, and net losses incurred by corporations in taxable years ending prior to 12/31/86, for Illinois purposes.

IT 91-254 09/17/1991 Unitary losses (federal net operating losses and Illinois net losses) transferred to a corporation which was in existence before and after the transfer may be carried forward and utilized against taxable income of any member which belonged to the unitary business group, subject to the limitations of IIT Reg. §269 and IRC §382.

IT 91-256 09/17/1991 Discusses application of Illinois income tax pursuant to corporations in pre-merger, merger and post-merger situations with emphasis on unitary filing of returns.

NET OPERATING LOSS AND NET OPERATING LOSS DEDUCTION

IT 91-189 07/15/91 Limitation No. 1 of the IIT Reg. §100.2750, which limits losses arising in non-unitary years when carried forward following a merger, must be applied because the corporations remained in existence after the reorganization.

IT 91-205 08/01/1991 C corporations may carryforward Net Operating Losses from loss years prior to 12/31/86 even though the corporation was not an Illinois taxpayer in the loss year.

IT 91-210 08/01/1991 The fact that the corporations had filed consolidated federal income tax returns and separate Illinois income tax returns before the merger would not prevent the recognition of a deduction for net operating losses of the merged

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

corporations. [Correction of Letter Ruling IT 91-22 of January 28, 1991].

IT 91-222 08/15/1991 Discusses the difference between Illinois net losses under IITA §207, and net losses incurred by corporations in taxable years ending prior to 12/31/86, for Illinois purposes.

IT 91-254 09/17/1991 Unitary losses (federal net operating losses and Illinois net losses) transferred to a corporation which was in existence before and after the transfer may be carried forward and utilized against taxable income of any member which belonged to the unitary business group, subject to the limitations of IIT Reg. §269 and IRC §382.

IT 91-256 09/17/1991 Discusses application of Illinois income tax pursuant to corporations in pre-merger, merger and post-merger situations with emphasis on unitary filing of returns.

PARTNERSHIPS

IT 91-192 07/16/91 Letter demonstrates a sufficiently good reason to annex a corporate Form IL-2569 to each of the IL-1065's (Partnership Returns), provided that other information and reporting requirements of Form IL-2569 are followed.

IT 91-216 08/08/1991 Relates general principles of Illinois income tax law as applied to partnerships and nonresident partners.

PAYMENTS
(Also See Estimated Tax)

IT 91-209 08/01/1991 Pursuant to Illinois Income Tax Act (IITA) §604, any payment to the Department which is made by a check or money order not payable to the Department, shall, within 15 days after receipt thereof, be returned by the Department to the taxpayer who submitted such check or money order.

IT 91-270 09/27/1991 There is no provision in the Illinois Income Tax Act which allows taxpayer to pay Illinois income tax in installments in a manner similar to IRC §811(c)(7) of the Tax Reform Act of 1986 - The Proportionate Disallowance Rule of IRC §453.

PENALTIES - FAILURE TO PAY ESTIMATED TAX (IITA §804)

1991 THIRD QUARTER SUNSHINE INDEX

IT 91-218	08/12/1991	Based upon facts presented, Ohio corporation was subject to Illinois income tax.
IT 91-225	08/15/1991	Finds that under facts stated, taxpayer is subject to tax in Ohio under test of IIT Reg. §100.3250. States that Illinois does not abide by the <u>Finnegan</u> decision.
IT 91-226	08/16/1991	Facts presented were inadequate to support a ruling letter on issue of Illinois nexus of foreign corporation.
IT 91-232	08/21/1991	Discusses general "nexus" principles for Illinois purposes.
IT 91-233	08/22/1991	Gross receipts from sales of "canned software" were to be included in the taxpayer's Illinois sales factor under facts presented.

RATE OF TAX

IT 91-200	07/29/91	The Illinois income tax rate for corporations is 4.8%. However, .4% of the 4.8% is a temporary rate until July 1, 1993. Effective July 1, 1993, the Illinois income tax rate for corporations is reduced to 4.4%. In addition to the regular income tax, for corporations there is a personal property replacement income tax which has a 2.5% rate. At the present time, therefore, the total corporate income tax rate is 7.3% (4.8% + 2.5%).
IT 91-260	09/23/1991	Pursuant to Public Act 87-17, Illinois income tax rates in effect prior to July 1, 1991 will remain in effect until July 1, 1993.

REFUNDS - STATUTE OF LIMITATIONS
(Also See Subtraction Modifications)

IT 91-198	07/18/91	Letter explaining that taxpayer's 1986 amended return was not accepted because it was not filed within the period required by IITA §911(a).
-----------	----------	---

REFUNDS - OTHER RULINGS (NOT INCLUDED ABOVE)
(Also See Subtraction Modifications)

IT 91-187	07/10/91	There is no statutory procedure which authorizes a deduction from an income tax refund based upon the facts presented. Section 917(a) of the IITA provides that informa-
-----------	----------	--

1991 THIRD QUARTER SUNSHINE INDEX

IT 91-196	07/18/91	Pursuant to IITA §804(f), the penalty imposed for underpayment of estimated tax can be waived where by reason of casualty, disaster or other unusual circumstances the imposition of the penalty is against equity and good conscience. The uncertainty of knowing in what year the contract income should be included in taxable income was an unusual circumstance making appropriate abatement of the §804 penalty. The penalty is waived only as to the penalty resulting from the inclusion of the grain sale in income. Any §804 penalty and interest otherwise due is not waived.
-----------	----------	--

PENSIONS
(Also See Subtraction Modifications)

IT 91-217	08/08/1991	Distributions from foreign corporation's non tax-qualified retirement plan were not subtractible for Illinois base income progress.
IT 91-221	08/14/1991	Distributions of IRC §457 deferred compensation plan of Illinois Municipal Electric Agency may be subtracted from adjusted gross income, to the extent included therein, for Illinois purposes.
IT 91-240	09/10/1991	Discusses the applicability of Illinois state income tax to retirement income from another state.

PUBLIC LAW 86-272/NEXUS

IT 91-201	07/29/91	Out-of-State ("foreign") corporations whose only activity within Illinois consists of the mere solicitation of orders for items of tangible personal property, which orders are accepted or rejected outside of Illinois and if accepted, are filled from inventories maintained outside Illinois by shipment or delivery from those inventories to the customer within Illinois, are not subject to Illinois income tax because of the application of Public Law 86-272. If a corporation exceeds this "mere solicitation" standard in Illinois, it loses immunity and will be liable for income and the additional replacement income tax for the entire taxable year. The immunity is narrowly construed and can be forfeited easily. Section 502(a)(2) of the IITA requires that a corporation which is qualified to do business in this state, and which is required to make a federal income tax return, regardless of whether the corporation is liable for Illinois income tax, is required to file an Illinois income tax return.
-----------	----------	--

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

tion obtained by the Department is confidential except for limited purposes or unless the Department is directed by a proper court order to release information requested.

IT 91-202

07/30/91 The reference in IITA §911(a)(1) allowing a claim for refund not later than one year after the date the tax was paid is an obvious reference to the payment of Illinois income tax - not the payment of income tax to another state. Consequently, such claims for refund (changes in other state tax) must be filed within a period of three years (plus extension permitted by 86 Ill. Adm. Code §100.5500) from the time of filing the original return. [See, 86 Ill. Adm. Code §100.9130(e)], or not later than one year after the Illinois income tax was paid. IITA §911(a)(1). An amended return (refund claim) for the year 1987 could be filed at this time since the time for filing would be within three years of the time for filing (plus extension permitted by 86 Ill. Adm. Code §100.5500).

REPLACEMENT TAX
(Also See Credits)

IT 91-207

08/01/1991 Illinois has an income tax that is imposed on individuals, corporations, trusts and estates. In addition, Illinois imposes a personal property replacement income tax of 2.5% on corporations and 1.5% on partnerships, trusts, and S corporations.

IT 91-208

08/01/1991 Explains Replacement Tax, the entities on which it is imposed and at what rate.

RESIDENCY/NONRESIDENCY

IT 91-229

08/20/1991 Discusses the law requiring taxpayers to file Illinois income tax returns as applied to various factual settings.

IT 91-246

09/11/1991 Discusses the Illinois residency presumption and the foreign tax credit.

RETURNS - AMENDED RETURNS

(For Combined Unitary Return and Composite Return Rulings, See Those Headings)

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

IT 91-198

07/18/91 Letter explaining that taxpayer's 1986 amended return was not accepted because it was not filed within the period required by IITA §911(a).

IT 91-202

07/30/91 The reference in IITA §911(a)(1) allowing a claim for refund not later than one year after the date the tax was paid is an obvious reference to the payment of Illinois income tax - not the payment of income tax to another state. Consequently, such claims for refund (changes in other state tax) must be filed within a period of three years (plus extension permitted by 86 Ill. Adm. Code §100.5500) from the time of filing the original return. [See, 86 Ill. Adm. Code §100.9130(e)], or not later than one year after the Illinois income tax was paid. IITA §911(a)(1). An amended return (refund claim) for the year 1987 could be filed at this time since the time for filing would be within three years of the time for filing (plus extension permitted by 86 Ill. Adm. Code §100.5500).

IT 91-219

08/12/1991 Amended returns not required to combine corporations deriving 100% of business income from Illinois, even though such corporations should have filed as a unitary business group.

RETURNS - REQUIREMENTS TO FILE

(For Combined Unitary Return and Composite Return Rulings, See Those Headings)

IT 91-184

07/01/91 A minister obligated to file an Illinois income tax return files an IL-1040 (individual return). The Department would follow Internal Revenue rules as to whether withholding is required from compensation received by a minister.

IT 91-201

07/29/91 Out-of-State ("foreign") corporations whose only activity within Illinois consists of the mere solicitation of orders for items of tangible personal property, which orders are accepted or rejected outside of Illinois and if accepted, are filled from inventories maintained outside Illinois by shipment or delivery from those inventories to the customer within Illinois, are not subject to Illinois income tax because of the application of Public Law 86-272. If a corporation exceeds this "mere solicitation" standard in Illinois, it loses immunity and will be liable for income and the additional replacement income tax for the entire taxable year. The immunity is narrowly construed and can be forfeited easily. Section 502(a)(2) of the IITA requires that a corporation which is qualified to

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

do business in this state, and which is required to make a federal income tax return, regardless of whether the corporation is liable for Illinois income tax, is required to file an Illinois income tax return.

IT 91-229 08/20/1991 Discusses the law requiring taxpayers to file Illinois income tax returns as applied to various factual settings.

IT 91-249 09/11/1991 Discusses when an out-of-State bank and its subsidiaries are required to file an Illinois income tax return.

S CORPORATIONS

IT 91-211 08/02/1991 Discusses the changes to the instructions for Schedules B and C of Form IL-1120-ST.

SUBTRACTION MODIFICATIONS - INTEREST ON U.S. GOVERNMENT OBLIGATIONS

IT 91-241 09/10/1991 Discusses the Illinois income taxation of Michigan municipal bond income, mutual fund income from investments in federal and state obligations and a Michigan pension.

IT 91-245 09/11/1991 Describes which types of income are exempt from Illinois income tax.

IT 91-265 09/24/1991 Questionnaire regarding the applicability of Illinois income taxation.

IT 91-267 09/25/1991 Discusses the calculation of the subtraction modification for the amortizable bond premium if of a federally tax-exempt municipal bond.

SUBTRACTION MODIFICATIONS - MILITARY

IT 91-229 08/20/1991 Discusses the law requiring taxpayers to file Illinois income tax returns as applied to various factual settings.

SUBTRACTION MODIFICATIONS - MONEY MARKET MUTUAL FUNDS

IT 91-241 09/10/1991 Discusses the Illinois income taxation of Michigan municipal bond income, mutual fund income from investments in federal and state obligations and a Michigan pension.

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

IT 91-250 09/11/1991 Discusses the Illinois income taxation of income from mutual funds investing in federal obligations.

IT 91-265 09/24/1991 Questionnaire regarding the applicability of Illinois income taxation.

SUBTRACTION MODIFICATIONS - PENSIONS

IT 91-230 08/21/1991 Questionnaire stated that voluntary 401(K) wages and 401(K) employer paid matching funds would not be included in taxable income. Voluntary \$125 wages would also not be included in taxable wages.

IT 91-231 08/21/1991 Federal tax qualified retirement plans are not subject to Illinois income tax. Retirement plans that are not qualified under the Internal Revenue Code are subject to Illinois Income Tax.

SUBTRACTION MODIFICATIONS - QUALIFIED PENSION PLANS

IT 91-221 08/14/1991 Distributions of IRC §457 deferred compensation plan of Illinois Municipal Electric Agency may be subtracted from adjusted gross income, to the extent included therein, for Illinois purposes.

IT 91-240 09/10/1991 Discusses the applicability of Illinois state income tax to retirement income from another state.

IT 91-261 09/23/1991 Addresses Illinois income tax obligations for income earned or not derived from an Illinois source; whether foreign service annuities are subject to Illinois income tax; indicates basic exemption each Illinois taxpayer is allowed.

IT 91-241 09/10/1991 Discusses the Illinois income taxation of Michigan municipal bond income, mutual fund income from investments in federal and state obligations and a Michigan pension.

IT 91-251 09/11/1991 To the extent included in an individual's adjusted gross income, distributions received pursuant to an IRA account may be deducted in arriving at net income subject to Illinois income tax.

IT 91-265 09/24/1991 Questionnaire regarding the applicability of Illinois income taxation.

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

SUBTRACTION MODIFICATIONS - OTHER RULINGS (NOT INCLUDED ABOVE)

- IT 91-183 07/01/91 Questionnaire regarding the effect on the Illinois income tax of the Omnibus Budget Reconciliation Act of 1990 (Reduction of itemized deductions and personal exemption allowances) forwarded.
- IT 91-193 07/17/91 Income from a "Valley View Pub. Sch. Community Unit School District 365 (Will County) bond is subject to Illinois income taxation. A copy of Publication 101 (Revised March 1991) forwarded.

- IT 91-244 09/11/1991 Discusses the Illinois income taxation of income from bonds of the Illinois Development Finance Authority and income from obligations of the Metropolitan Fair and Exposition Authority and the City of Chicago, Chicago O'Hare International Airport.

- IT 91-245 09/11/1991 Describes which types of income are exempt from Illinois income tax.

TRUSTS

- IT 91-247 09/11/1991 Estates & Trusts: Discusses Illinois income tax laws as they apply to the net income of a trust or estate.

- IT 91-255 09/17/1991 Discusses the application of Illinois income tax to income allocated to Illinois from an Iowa land trust.

- IT 91-269 09/25/1991 Discusses the determination of whether or not trust income is subject to Illinois income tax.

UNITARY
(Also See Combined Unitary Return)

- IT 91-189 07/15/91 Limitation No. 1 of the IIT Reg. §100.2750, which limits losses arising in non-unitary years when carried forward following a merger, must be applied because the corporations remained in existence after the reorganization.

- IT 91-199 07/22/91 Letter Ruling IT 91-39 modified. Department has determined that the 80/20 rule should not be applied in determining whether an FSC should be included as a member of a unitary group.

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

- IT 91-219 08/12/1991 Amended returns not required to combine corporations deriving 100% of business income from Illinois, even though such corporations should have filed as a unitary business group.

- IT 91-254 09/17/1991 Unitary losses (federal net operating losses and Illinois net losses) transferred to a corporation which was in existence before and after the transfer may be carried forward and utilized against taxable income of any member which belonged to the unitary business group, subject to the limitations of IIT Reg. §269 and IRC §382.

- IT 91-256 09/17/1991 Discusses application of Illinois income tax pursuant to corporations in pre-merger, merger and post-merger situations with emphasis on unitary filing of returns.

WITHHOLDING - EMPLOYEE BENEFITS

- IT 91-252 09/12/1991 Addresses questions raised regarding withholding and reporting requirements on employer-sponsored retirement plan payments.

WITHHOLDING - PERSONAL SERVICES CONTRACTS (ITA §1405.2)

- IT 91-237 08/28/1991 Illinois performances of foreign choir group appears to be subject to Illinois information reporting requirements.

WITHHOLDING - OTHER RULINGS (NOT INCLUDED ABOVE)

- IT 91-184 07/01/91 A minister obligated to file an Illinois income tax return files an IL-1040 (individual return). The Department would follow Internal Revenue rules as to whether withholding is required from compensation received by a minister.

- IT 91-185 07/08/91 Compensation for services in Illinois which are incidental to services performed in another state are not subject to Illinois income tax or Illinois withholding. If services are not localized in any state, wages are not paid in Illinois if the base of operations and place from which services are directed and controlled are not in Illinois.

- IT 91-234 08/28/1991 Details Illinois informational reporting requirements regarding rent, royalty, personal service contract, and prize and award transactions.

DEPARTMENT OF REVENUE

1991 THIRD QUARTER SUNSHINE INDEX

- IT 91-235 08/28/1991 Describes test for determining whether individual is a "farmer", for Illinois estimated tax and withholding purposes.
- IT 91-242 09/10/1991 Furnished information regarding the withholding of Illinois income tax including tables.
- IT 91-243 09/11/1991 Discusses application of penalties and interest for an employer's failure to withhold Illinois income tax.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 8, 1992 through January 14, 1992, and have been scheduled for review by the Committee at its February 4, 1992 meeting. Other items not contained in this published list may also be considered by the Committee at its February meeting. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 509 South Sixth Street, Room 500, Springfield, IL 62701.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
2/24/92	Department of Commerce and Community Affairs, Residential Energy Assistance Partnership Program (47 Ill. Adm. Code 100)	10/11/91 15 Ill. Reg. 14337	2/4/92
2/24/92	Secretary of State, Illinois Union Label Act (14 Ill. Adm. Code 175)	11/22/91 15 Ill. Reg. 16943	2/4/92
2/24/92	Department of Professional Regulation, Real Estate License Act of 1983 (68 Ill. Adm. Code 1450)	10/11/91 15 Ill. Reg. 14375	2/4/92
2/24/92	Department of Labor, Illinois Child Labor Law (56 Ill. Adm. Code 250)	11/8/91 15 Ill. Reg. 15862	2/4/92
2/27/92	Department of Revenue, Automobile Renting Use Tax Regulations (86 Ill. Adm. Code 190)	11/8/91 15 Ill. Reg. 15958	2/4/92
2/27/92	Department of Revenue, Hotel Operators' Occupation Tax Act (86 Ill. Adm. Code 480)	10/25/91 15 Ill. Reg. 15422	2/4/92
2/27/92	Department of Revenue, Automobile Renting Occupation Tax (86 Ill. Adm. Code 180)	11/8/91 15 Ill. Reg. 15948	2/4/92
2/27/92	Department of Public Health, College Immunization Code (77 Ill. Adm. Code 694)	5/10/91 15 Ill. Reg. 6972	2/4/92

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSECOND NOTICES RECEIVED
(page 2)

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
2/27/92	Department of Rehabilitation Services, Non-Financial Eligibility Criteria (89 Ill. Adm. Code 685)	10/11/91 15 Ill. Reg. 14392	2/4/92
2/28/92	Department of Public Health, AIDS Drug Reimbursement Program (77 Ill. Adm. Code 692)	10/11/91 15 Ill. Reg. 14389	2/4/92
2/28/92	Department of Public Health, The Illinois Formulary for the Drug Product Selection Program (77 Ill. Adm. Code 790)	11/8/91 15 Ill. Reg. 15943	2/4/92
2/28/92	Pollution Control Board, Management of Scrap Tires, Repeal of (35 Ill. Adm. Code 849)	9/13/91 15 Ill. Reg. 13265	2/4/92

PROCLAMATION

92-001

LESTER H. MCKEEVER JR. DAY

Whereas, Lester H. McKeever Jr. earned his B.S. in Accounting from the University of Illinois and his J.D. with distinction from the IIT-Chicago Kent College of Law; and

Whereas, Lester served in the U.S. Army and received four letters of commendation for the performance of his assigned duties; and

Whereas, he heads the firm of Washington, Pittman & McKeever. He joined the firm in 1959 and was elected managing partner in 1976; and

Whereas, Lester is a licensed Certified Public Accountant in Illinois, Wisconsin, and Michigan and a licensed attorney in Illinois, U.S. District Courts, and U.S. Tax Court; and

Whereas, Lester has a special interest in horse racing and is president of Associates Racing Association and corporate secretary of Maywood Trotting Association and Egyptian Trotting Association. He is an officer and board member for Harness Tracks of America and HTA Insurance Company and a board member for Balmoral Racing Club; and

Whereas, Lester is cochairman of Chicago United and the Financial Research and Advisory Committee and serves on several not-for-profit boards and councils;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 18, 1992, as LESTER H. MCKEEVER JR. DAY in Illinois, in recognition of his outstanding professional achievements, business successes, and a demonstrated commitment to social and economic progress.

Issued by the Governor January 3, 1992.

Filed with the Secretary of State January 9, 1992.

92-002

SCHOOL SOCIAL WORK WEEK

Whereas, the more than 22,000 school social workers in Illinois provide services to thousands of school children in regular and special education settings to help these children maximize their learning potential and experience school success; and

Whereas, school social workers assist the most vulnerable children and adolescents, including children with handicaps, abused and neglected children, low-income and minority children, pregnant teens, suicidal teens, potential dropouts, substance abusers, and other at-risk children and youths; and

Whereas, school social workers help parents and school personnel bridge the gap between home and school, coordinating community services to meet special needs of children and families; and

Whereas, school social workers work closely with school administrators, teachers, and other education professionals to help schools develop programs that are flexible and responsive to individual student needs; and

Whereas, school social workers advocate for schools, families, children, and youth in the legislative arena by supporting proposals to improve and stabilize school funding, abolish corporal punishment, and improve legislation and programs for at-risk children and youth;

Therefore, I, Jim Edgar, Governor of the State of Illinois proclaim March 8-14, 1992, as SCHOOL SOCIAL WORK WEEK in Illinois.

Issued by the Governor January 3, 1992.

Filed with the Secretary of State January 9, 1992.

92-003

V. GLENN AND ZADA HUNT DAY

Whereas, V. Glenn and Zada Hunt were married January 3, 1942, in Palmyra, Missouri, and have spent their married life in the Girard/Palmyra, Illinois, area; and

Whereas, Glenn and Zada have selflessly worked to raise four children--Donald G. of Palmyra, James L. of Girard, Rebecca "Becky" Robbins and Lisa Rawlings, both of Springfield, and also enjoy eight grandchildren and 2 great-grandchildren; and

Whereas, Glenn and Zada have been faithful members and supporters of Pleasant Dale Baptist Church. They have shared themselves and their home for numerous Christian activities and have taught the Golden Rule by example and in their Sunday School and Bible School classes; and

Whereas, prior to his retirement, Glenn enjoyed many productive years as a farmer and seed corn dealer and was a member of the Girard School Board; and

Whereas, Zada is a homemaker who always finds time for her own family and to visit the sick and elderly of the community. She has been an active member and officer of the Women's Missionary Union, which supports both foreign and state missions and annually provides Christmas gifts for a child at the Carmi Children's Home; and

Whereas, Glenn and Zada will celebrate their 50th wedding anniversary January 3, 1992, and will enjoy a family dinner in their honor January 5;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 3, 1992, as V. GLENN AND ZADA HUNT DAY in Illinois in recognition of their lifelong commitment of love to each other and their valuable contributions to their family and community.

Issued by the Governor January 2, 1992.

Filed with the Secretary of State January 13, 1992.

92-004

CATHOLIC SCHOOLS WEEK/NATIONAL APPRECIATION DAY FOR CATHOLIC SCHOOLS

Whereas, citizens have the option of selecting private or parochial education; and

Whereas, Catholic schools have existed for many years and have educated millions of students; and

Whereas, a high percentage of Catholic school students go to college; and

Whereas, the National Catholic Education Association is sponsoring a national day of appreciation for Catholic schools January 29, 1992, a yearly observance to celebrate the schools' achievements and promote parental choice in the selection of schools;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 26-February 1, 1992, as CATHOLIC SCHOOLS WEEK and January 29, 1992, as NATIONAL APPRECIATION DAY FOR CATHOLIC SCHOOLS in Illinois.

Issued by the Governor January 7, 1992.

Filed with the Secretary of State January 13, 1992.

92-005

GREAT LAKES CHALLENGE GOVERNORS CUP RACE

Whereas, the popularity of cross-country skiing has grown significantly over the past few years as our citizens have become more health-conscious; and

Whereas, cross-country skiing gives people the opportunity to enjoy the beauty of the outdoors while strengthening their cardiovascular system and enhancing the development and coordination of muscle strength; and

Whereas, the Indian Hills Equestrian Center is hosting a Great Lakes Challenge Governors Cup Race for cross-country skiers February 16 in Gilberts;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim February 16, 1992, as GREAT LAKES CHALLENGE GOVERNORS CUP RACE in Illinois.

Issued by the Governor January 7, 1992.

Filed with the Secretary of State January 13, 1992.

92-006

JOINT ACTION IN COMMUNITY SERVICE DAY

Whereas, January 20, 1992, marks the 25th anniversary of the Joint Action in Community Service, Inc. (JACS); and

Whereas, a coalition of religious leaders representing national Protestant, Catholic, and Jewish organizations founded JACS to work with youths in a nationwide campaign against poverty; and

Whereas, JACS promotes the spirit of volunteerism by enabling others to achieve richer and contributing lives; and
 Whereas, JACS volunteers have demonstrated dedication through their work to benefit our youths and our community and have earned the priceless gift that only comes from giving;
 Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim January 20, 1992, as JOINT ACTION IN COMMUNITY SERVICE DAY in Illinois in recognition of the organization's service to the young people in our communities.

Issued by the Governor January 7, 1992.

Filed with the Secretary of State January 13, 1992.

92-007

**NORTH EAST MULTI-REGIONAL TRAINING-MOBILE TEAM
 UNIT #3 REFERENDUM NOTICE/FEDERAL SOCIAL SECURITY**

Whereas, the North East Multi-Regional Training-Mobile Team Unit #3 desires to provide Federal Old Age, Survivors, Disability, and Health Insurance coverage for its employees, in addition to the fixed annuity retirement plan effective January 1, 1983; and

Whereas, the referendum must be conducted in accordance with the Federal Social Security Act and Illinois Pension Code, Article 21, as amended, which requires that eligible employees who participate in the Mobile Team Unit retirement plan be given the opportunity to indicate by written ballot the need for social security coverage; and

Whereas, the referendum procedure requires that eligible employees be given a detailed description of the two choices available and allowed 90 days notice prior to the voting date;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim eligible employees be given 90 days notice before their choice is expressed by written ballot in conformity with the referendum procedure under the Federal Social Security Act and the Illinois Pension Code. The ballots shall be returned to the Chairman of the Advisory Board of the North East Multi-Regional Training-Mobile Team Unit #3 and the referendum concluded not later than April 20, 1992.

I hereby designate the Executive Secretary of the State Employees' Retirement System and the Chairman of the Advisory Board of the North East Multi-Regional Training-Mobile Team Unit #3 as the officials who are jointly responsible for the distribution of details of the proclamation pursuant to the provisions of the Federal Social Security Act and the Illinois Pension Code, Article 21, as amended. I hereby confer upon such officials the authority to jointly certify the results of the referendum to be conducted as herein proclaimed in accordance with said statutes.

Issued by the Governor January 7, 1992.

Filed with the Secretary of State January 13, 1992.

92-008

**PRESIDENT FRANCESCO COSSIGA SCHOLAR
 AT THE NEWBERRY LIBRARY CREATED**

Whereas, more than one million citizens of Illinois trace their ancestry to Italy; and

Whereas, the Italians and their descendants have helped enrich countless areas of life in Illinois, including music, art, religion, science, education, agriculture, business, industry, and athletics; and

Whereas, the Italians and their descendants have strongly influenced the culture of Illinois, as is evident in our arts, operas, and cuisine; and

Whereas, President Francesco Cossiga, a longtime scholar and dedicated statesman, is honoring the State of Illinois with his first visit;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim the creation of the PRESIDENT FRANCESCO COSSIGA SCHOLAR AT THE NEWBERRY LIBRARY, whereby an Italian scholar will come to Illinois to utilize the Renaissance Newberry's outstanding collection for original research, in recognition of the friendship between Italy and the State of Illinois.

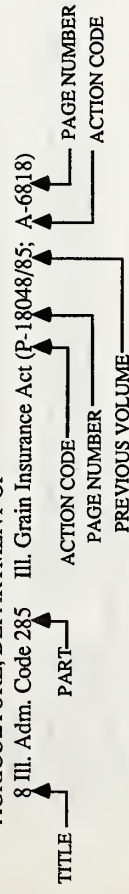
Issued by the Governor January 7, 1992.

Filed with the Secretary of State January 13, 1992.

ACTION CODES	
Rules	
A - Adopted Rule	P - Proposed Rule
AR - Adopted Repealer	PF - Prohibited Filing Ordered by JCAR
C - Notice of Corrections	PP - Peremptory or Court ordered Rules
CC - Codification Changes	PR - Proposed Repealer
E - Emergency Rule	R - Refusal to meet JCAR objection
ER - Emergency Repealer	RC - Statement of Recommendation
M - Modification to meet JCAR objections	S - Suspension ordered by JCAR
O - JCAR Statement of Objections	W - Withdrawal to meet JCAR objections

EXAMPLE:

AGRICULTURE, DEPARTMENT OF



ALL RULES ARE LISTED BY PART NUMBER AND HEADING ONLY. (FOR ACTION ON SPECIFIC SECTIONS, PLEASE REFER TO THE SECTIONS AFFECTED INDEX.) IF THERE ARE ANY QUESTIONS, PLEASE CONTACT THE ADMINISTRATIVE CODE DIVISION AT (217) 782-9786.

AGING, DEPARTMENT ON

89 Ill. Adm. Code 240 Community Care Program (E-17398/91; S-1744)

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

80 Ill. Adm. Code 303 Conditions of Employment (P-327)
 80 Ill. Adm. Code 304 General Provisions (P-334)
 80 Ill. Adm. Code 302 Merit & Fitness (P-336)
 80 Ill. Adm. Code 310 Pay Plan (P-342) (E-711)

COMMERCE AND COMMUNITY AFFAIRS, DEPARTMENT OF

14 Ill. Adm. Code 520 Enterprise Zone Program (P-9787/91; A-89)
 56 Ill. Adm. Code 2630 Uniform Fiscal & Administrative Standards for the Job Training Partnership Act (P-8081/91; A-1524)

CONSERVATION, DEPARTMENT OF

17 Ill. Adm. Code 590 Duck, Goose & Coot Hunting (P-14157/91; A-570)
 17 Ill. Adm. Code 1010 Ill. List of Endangered & Threatened Fauna (P-13594/91; A-103)
 17 Ill. Adm. Code 880 Taking of Reptiles & Amphibians, The (P-13603/91; A-109)
 17 Ill. Adm. Code 1538 Urban Forestry Grant Program (P-775)

EDUCATION, STATE BOARD OF

23 Ill. Adm. Code 130 Determining Special Education Per Capita Tuition Charge (P-1439)
 23 Ill. Adm. Code 235 Preschool Educational & Coordinated Model Preschool Educational Programs (P-439)

EDUCATION, STATE BOARD OF (CONT'D)

23 Ill. Adm. Code 120 Pupil Transportation Reimbursement (P-1452)

EMPLOYMENT SECURITY, DEPARTMENT OF

56 Ill. Adm. Code 2725 Administrative Hearings & Appeals (P-13252/91; A-113)
 56 Ill. Adm. Code 2720 Determination of Unemployment Contributions (P-13257/91; A-118)
 56 Ill. Adm. Code 2327 Employment (P-785)

INSURANCE, DEPARTMENT OF

50 Ill. Adm. Code 2008 Minimum Standards for Individual & Group Medicare Supplement Insurance (P-14859/91; P-1743)
 50 Ill. Adm. Code 3119 Pre-Licensing & Continuing Education (P-11055/91; A-126)

LABOR, DEPARTMENT OF

56 Ill. Adm. Code 1700 Balloon Dart Game Permit Act, The (P-1469)
 56 Ill. Adm. Code 350 Health & Safety (P-1)

LOCAL GOVERNMENTAL LAW ENFORCEMENT OFFICERS TRAINING BOARD

20 Ill. Adm. Code 1720 Ill. Police Training Act (E-727)

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES, DEPARTMENT OF

59 Ill. Adm. Code 132 Medicaid Community Mental Health Services Program (P-7) (E-211)

MOTOR VEHICLE THEFT PREVENTION COUNCIL

20 Ill. Adm. Code 1810 Rules for the Award & Monitoring of Trust Funds (P-469) (E-732)
 20 Ill. Adm. Code 1800 Trust Fund Collection Rules (P-10)

NUCLEAR SAFETY, DEPARTMENT OF

32 Ill. Adm. Code 401 Accrediting Persons in the Practice of Medical Radiation Technology (P-1474)

POLLUTION CONTROL BOARD

35 Ill. Adm. Code 243 Air Quality Standards (P-16)
 35 Ill. Adm. Code 244 Episodes (P-22)
 35 Ill. Adm. Code 615 Existing Activities in a Seaback Zone or Regulated Recharge Area (P-10303/91; O-17791/91; R-1702; A-1538)

35 Ill. Adm. Code 720 Hazardous Waste Management System; General (P-791)

35 Ill. Adm. Code 721 Identification & Listing of Hazardous Waste (P-820)

35 Ill. Adm. Code 725 Interim Status Standards for Owners & Operators of Hazardous Waste Treatment, Storage & Disposal Facilities (P-875)

35 Ill. Adm. Code 601 Introduction (P-9829/91; O-17792/91; R-1713; A-1585)

35 Ill. Adm. Code 728 Land Disposal Restrictions (P-916)

35 Ill. Adm. Code 616 New Activities in a Seaback Zone or Regulated Recharge Area (P-9836/91; O-17793/91; R-1723; A-1592)

35 Ill. Adm. Code 703 RCRA Permit Program (P-1058)

35 Ill. Adm. Code 617 Regulated Recharge Areas (P-9882/91; O-17794/91; R-1734; A-1639)

35 Ill. Adm. Code 809 Special Waste Hauling (P-13017/91; A-130)

35 Ill. Adm. Code 722 Standards Applicable to Generators of Hazardous Waste (P-1112)

35 Ill. Adm. Code 724 Standards for Owners & Operators of Hazardous Waste Treatment, Storage & Disposal Facilities (P-1123)

35 Ill. Adm. Code 726 Standards for the Management of Specific Hazardous Waste & Specific Types of Hazardous Waste Management Facilities (P-1148)

35 Ill. Adm. Code 212 Visible & Particulate Matter Emissions (P-41)

PRAIRIE STATE 2000 AUTHORITY

56 Ill. Adm. Code 5400 Individual Training Assistance Program (P-1490) (E-1693)

ILLINOIS REGISTER

VOL. 16, ISSUE #4 1992 CUMULATIVE INDEX JANUARY 24, 1992

PUBLIC AID, DEPARTMENT OF

89 Ill. Adm. Code 121 Food Stamps (E-757)
89 Ill. Adm. Code 120 Medical Assistance Programs (P-12137/91; A-139)
89 Ill. Adm. Code 140 Medical Payment (P-65) (E-300) (P-12171/91; A-174) (P-472) (P-1492)

PUBLIC HEALTH, DEPARTMENT OF

77 Ill. Adm. Code 350 Intermediate Care for the Developmentally Disabled Facilities Code (P-4280/91; A-594)
77 Ill. Adm. Code 390 Long-Term Care for Under Age 22 Facilities Code (P-4309/91; A-623)
77 Ill. Adm. Code 330 Sheltered Care Facilities Code (4338/91; A-651)
77 Ill. Adm. Code 300 Skilled Nursing & Intermediate Care Facilities Code (4367/91; A-681)

RACING BOARD, ILLINOIS

11 Ill. Adm. Code 415 Programs (P-1263)
11 Ill. Adm. Code 1424 Regs. for Meetings (P-1266)

REHABILITATION SERVICES, DEPARTMENT OF

89 Ill. Adm. Code 510 Appeals & Hearings (P-69)

REVENUE, DEPARTMENT OF

86 Ill. Adm. Code 130 Retailers' Occupation Tax (P-15013/91; A-1642)

SECRETARY OF STATE

92 Ill. Adm. Code 1030 Issuance of Licenses (P-1271)
71 Ill. Adm. Code 2000 Public Building Construction (P-1511)

STATE POLICE, DEPARTMENT OF

20 Ill. Adm. Code 1235 Firearm Transfer Inquiry Program (E-17785/91; O-1746)

TRANSPORTATION, DEPARTMENT OF

92 Ill. Adm. Code 708 Floodway Construction in Northeastern Ill. (P-3193/91; A-194)
92 Ill. Adm. Code 440 Minimum Safety Standards for Construction of Type I School Buses (P-13041/91; A-1655)
92 Ill. Adm. Code 442 Minimum Safety Standards for Construction of Type II School Buses (P-13072/91; A-1685)

TREASURER

74 Ill. Adm. Code 750 Home Ownership Made Easy Act (P-15035/91; A-203)

VETERANS' AFFAIRS, DEPARTMENT OF

95 Ill. Adm. Code 116 MIA/POW Scholarship (P-558)
95 Ill. Adm. Code 121 Persian Gulf Conflict Veterans Act (P-561)

PUBLIC HEARINGS

AGING, DEPARTMENT ON

Community Care Program; 89 Ill. Adm. Code 240

INSURANCE, DEPARTMENT OF

Infertility Coverage; 50 Ill. Adm. Code 2015

LABOR, DEPARTMENT OF

Balloon Dart Game Permit Act, The; 56 Ill. Adm. Code 1700

STATE POLICE, DEPARTMENT OF

Firearm Transfer Inquiry Program; 20 Ill. Adm. Code 1235

ILLINOIS REGISTER

VOL. 16, ISSUE #4 1992 CUMULATIVE INDEX JANUARY 24, 1992

PUBLIC INFORMATION

ATTORNEY GENERAL

In Conjunction with the Ill. Environmental Protection Agency, Proposed Consent Decree to Resolve Costs of Site Study & Remedial Work At Kilbourne Avenue Site in Chicago, Ill. 1748

EDUCATION, STATE BOARD OF

State Plan for Fiscal Years 1993-95 Under Part B of the Individuals with Disabilities Education Act 1276

LOTTERY, DEPARTMENT OF THE

Listing of Game-Specific Materials published by the Lottery during calendar year 1991 1435

REVENUE, DEPARTMENT OF

Index of Letter Rulings (Third Quarter of 1991) (Income Tax) 1750

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Agenda for January 8, 1992 320

Second Notices Received 325, 769, 1437, 1772

EXECUTIVE ORDERS AND PROCLAMATIONS

PROCLAMATIONS

91-590	Top Ladies of Distinction Day	326
91-591	Glenbrook North Marching Band Day	326
91-592	Donald H. Schlosser Recognized	770
91-593	Brian Stocker Wishful Success	770
91-594	Black Data Processing Associates Day	771
91-595	Blood Donor Awareness Month	771
91-596	217th Engineering Installation Squadron Anniversary Month	772
91-597	Kiwanis Week	772
92-001	Lester H. McKeever, Jr. Day	1774
92-002	School Social Work Week	1774
92-003	V. Glenn and Zada Hunt Day	1775
92-004	Catholic Schools Week/National Appreciation Day for Catholic Schools	1776
92-005	Great Lakes Challenge Governors Cup Race	1776
92-006	Joint Action In Community Service Day	1776
92-007	North East Multi-Regional Training-Mobile Team Unit #3 Referendum Notice/ Federal Social Security Act	1777
92-008	President Francesco Cossiga Scholar At The Newberry Library Created	1778

JANUARY 24, 1992

VOLUME 16, ISSUE #4

SECTIONS AFFECTED INDEX

120.10 am (P-1452)

1538.20	n	(P-775)
1538.30	n	(P-775)
1538.40	n	(P-775)
1538.50	n	(P-775)
1538.60	n	(P-775)
1538.70	n	(P-775)
1538.80	n	(P-775)

TITLE 20	n	(E-17785/91; O-1746)
1235.10	n	(E-17785/91; O-1746)
1235.20	n	(E-17785/91; O-1746)
1235.30	n	(E-17785/91; O-1746)
1235.40	n	(E-17785/91; O-1746)
1235.50	n	(E-17785/91; O-1746)
1235.60	n	(E-17785/91; O-1746)
1235.70	n	(E-17785/91; O-1746)
1235.80	n	(E-17785/91; O-1746)
1235.90	n	(E-17785/91; O-1746)
1235.100	n	(E-17785/91; O-1746)
1235.110	n	(E-17785/91; O-1746)
1235.120	n	(E-17785/91; O-1746)
1235.130	n	(E-17785/91; O-1746)

1810.100	n	(P-469) (E-732)	401.70	am	(P-1474)
1810.110	n	(P-469) (E-732)	401.70	am	(P-1474)
1810.120	n	(P-469) (E-732)	401.110	am	(P-1474)
1810.200	n	(P-469) (E-732)	401.130	am	(P-1474)
1810.210	n	(P-469) (E-732)	401.140	am	(P-1474)
1810.220	n	(P-469) (E-732)	401.150	am	(P-1474)
1810.230	n	(P-469) (E-732)	401.160	n	(P-1474)
1810.240	n	(P-469) (E-732)	401.Ap. B	am	(P-1474)
1810.250	n	(P-469) (E-732)	401.Ap. C	n	(P-1474)
1810.300	n	(P-469) (E-732)			
1810.400	n	(P-469) (E-732)			
1810.410	n	(P-469) (E-732)			

SAI-1

TYPE OF RULEMAKING	ACTION CODES
am = amendment to existing Section	A = Adopted rule
cc = codification changes	C = Correction
n = new Section	CC = Codification Changes
r = repeal of existing Section	E = Emergency rule
rc = reconfirmed	F = Failure to Remedy Objections
# = renumbered	M = Modification
	O = JCAR Objection
	P = Proposed rule
	PF = Prohibited Filing
	PP = Peremptory rule
	R = Refusal to Modify or Withdraw
	RC = JCAR Recommendation
	S = Suspended rule
	W = Withdrawal of Proposed rule

TITLE 35	am	(P-41)	n	615.306	R-1702; A-1538
212.113	am	(P-41)	n	615.306	R-1702; A-1538
212.424	am	(P-41)	n	615.307	R-1702; A-1538
212.443	am	(P-41)	n	615.401	R-1702; A-1538
212.445	am	(P-16)	n	615.402	R-1702; A-1538
243.108	n	(P-16)	n	615.403	R-1702; A-1538
243.120	f	(P-16)	n	615.404	R-1702; A-1538
243.121	am	(P-22)	n	615.421	R-1702; A-1538
244.101	am	(P-22)	n	615.422	R-1702; A-1538
244.106	am	(P-22)	n	615.423	R-1702; A-1538
244.107	am	(P-22)	n	615.424	R-1702; A-1538
244.121	am	(P-22)	n	615.441	R-1702; A-1538
244.161	am	(P-22)	n	615.442	R-1702; A-1538
244.162	am	(P-22)	n	615.443	R-1702; A-1538
244.163	am	(P-22)	n	615.444	R-1702; A-1538
244.166	am	(P-22)	n	615.445	R-1702; A-1538
244.167	am	(P-22)	n	615.446	R-1702; A-1538
244.168	am	(P-22)	n	615.447	R-1702; A-1538
244.169	am	(P-22)	n	615.461	R-1702; A-1538
244.Ap.D	am	(P-22)	n	615.462	R-1702; A-1538
601.105	am	R-9829/91; O-17792/91; R-1713; A-1585	n	615.463	R-1702; A-1538
615.101	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n	615.464	R-1702; A-1538
615.102	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n	615.501	R-1702; A-1538
615.103	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n	615.502	R-1702; A-1538
615.104	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n	615.601	R-1702; A-1538
615.105	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n	615.602	R-1702; A-1538
615.201	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n	615.603	R-1702; A-1538
615.202	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n	615.604	R-1702; A-1538
615.203	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n	615.621	R-1702; A-1538
615.204	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n	615.622	R-1702; A-1538
615.205	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n	615.623	R-1702; A-1538
615.206	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n		R-1702; A-1538
615.207	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n		R-1702; A-1538
615.208	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n		R-1702; A-1538
615.209	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n		R-1702; A-1538
615.210	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n		R-1702; A-1538
615.211	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n		R-1702; A-1538
615.301	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n		R-1702; A-1538
615.302	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n		R-1702; A-1538
615.303	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n		R-1702; A-1538
615.304	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n		R-1702; A-1538
615.305	n	(P-10303/91; O-17791/91; R-1702; A-1538)	n		R-1702; A-1538

SAI-2

TITLE 35 (CONT'D)		
615.624	n	(P-10303/91; O-17791/91; R-1702; A-1538)
615.701	n	(P-10303/91; O-17791/91; R-1702; A-1538)
615.702	n	(P-10303/91; O-17791/91; R-1702; A-1538)
615.703	n	(P-10303/91; O-17791/91; R-1702; A-1538)
615.704	n	(P-10303/91; O-17791/91; R-1702; A-1538)
615.705	n	(P-10303/91; O-17791/91; R-1702; A-1538)
615.721	n	(P-10303/91; O-17791/91; R-1702; A-1538)
615.722	n	(P-10303/91; O-17791/91; R-1702; A-1538)
615.723	n	(P-10303/91; O-17791/91; R-1702; A-1538)
615.724	n	(P-10303/91; O-17791/91; R-1702; A-1538)
616.101	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.102	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.104	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.105	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.201	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.202	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.203	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.204	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.205	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.206	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.207	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.208	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.209	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.210	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.211	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.301	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.302	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.304	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.305	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.306	n	(P-9836/91; O-17793/91; R-1723; A-1592)
616.307	n	(P-9836/91; O-17793/91; R-1723; A-1592)

SAI-3

TITLE 35 (CONT'D)			TITLE 50 (CONT'D)			TITLE 56			TITLE 59			TITLE 74			TITLE 77		
616.702	n	(P-9836/91; O-17793/91; R-1723; A-1592)	726.201	n	(P-1148)	726.201	am	(P-1511)	2008.71	#	(P-14859/91; PF-1743)	132.15	(P-7) (E-211)				
616.703	n	(P-9836/91; O-17793/91; R-1723; A-1592)	726.202	n	(P-1148)	726.202	am	(P-1511)	2008.71	n	(P-14859/91; PF-1743)	132.20	(P-7) (E-211)				
616.704	n	(P-9836/91; O-17793/91; R-1723; A-1592)	726.203	n	(P-1148)	726.203	am	(P-1511)	2008.72	n	(P-14859/91; PF-1743)	132.25	(P-7) (E-211)				
616.705	n	(P-9836/91; O-17793/91; R-1723; A-1592)	726.204	n	(P-1148)	726.204	am	(P-1511)	2008.73	n	(P-14859/91; PF-1743)	132.30	(P-7) (E-211)				
616.721	n	(P-9836/91; O-17793/91; R-1723; A-1592)	726.205	n	(P-1148)	726.205	am	(P-1511)	2008.74	n	(P-14859/91; PF-1743)	132.35	(P-7) (E-211)				
616.722	n	(P-9836/91; O-17793/91; R-1723; A-1592)	726.206	n	(P-1148)	726.206	am	(P-1511)	2008.75	#	(P-14859/91; PF-1743)	132.40	(P-7) (E-211)				
616.723	n	(P-9836/91; O-17793/91; R-1723; A-1592)	726.207	n	(P-1148)	726.207	am	(P-1511)	2008.75	am	(P-14859/91; PF-1743)	132.45	(P-7) (E-211)				
616.724	n	(P-9836/91; O-17793/91; R-1723; A-1592)	726.208	n	(P-1148)	726.208	am	(P-1511)	2008.80	am	(P-14859/91; PF-1743)	132.50	(P-7) (E-211)				
616.725	n	(P-9836/91; O-17793/91; R-1723; A-1592)	726.209	n	(P-1148)	726.209	am	(P-1511)	2008.81	am	(P-14859/91; PF-1743)	132.55	(P-7) (E-211)				
617.101	n	(P-9836/91; O-17793/91; R-1723; A-1592)	726.210	n	(P-1148)	726.210	am	(P-1511)	2008.81	r	(P-14859/91; PF-1743)	132.60	(P-7) (E-211)				
617.102	n	(P-9836/91; O-17793/91; R-1723; A-1592)	726.211	n	(P-1148)	726.211	am	(P-1511)	2008.82	n	(P-14859/91; PF-1743)	132.65	(P-7) (E-211)				
703.150	am	(P-1058)	726.212	n	(P-1148)	726.212	am	(P-1511)	2008.82	am	(P-14859/91; PF-1743)	132.70	(P-7) (E-211)				
703.155	am	(P-1058)	726.219	n	(P-1148)	726.219	am	(P-1511)	2008.90	am	(P-14859/91; PF-1743)	132.75	(P-7) (E-211)				
703.157	am	(P-1058)	726.220	n	(P-1148)	726.220	am	(P-1511)	2008.100	am	(P-14859/91; PF-1743)	132.80	(P-7) (E-211)				
703.208	n	(P-1058)	726.221	n	(P-1148)	726.221	am	(P-1511)	2008.101	am	(P-14859/91; PF-1743)	132.85	(P-7) (E-211)				
703.211	am	(P-1058)	726.222	n	(P-1148)	726.222	am	(P-1511)	2008.102	am	(P-14859/91; PF-1743)	132.90	(P-7) (E-211)				
703.232	n	(P-1058)	726.223	n	(P-1148)	726.223	am	(P-1511)	2008.103	am	(P-14859/91; PF-1743)	132.95	(P-7) (E-211)				
703.280	am	(P-1058)	726.224	n	(P-1148)	726.224	am	(P-1511)	2008.104	am	(P-14859/91; PF-1743)	132.100	(P-7) (E-211)				
703.283	am	(P-1058)	726.225	n	(P-1148)	726.225	am	(P-1511)	2008.110	am	(P-14859/91; PF-1743)	132.105	(P-7) (E-211)				
703.283	am	(P-1058)	726.226	n	(P-1148)	726.226	am	(P-1511)	2008.Ap. A	am	(P-14859/91; PF-1743)	132.110	(P-7) (E-211)				
703.283	am	(P-1058)	726.227	n	(P-1148)	726.227	am	(P-1511)	2008.Ap. B	am	(P-14859/91; PF-1743)	132.115	(P-7) (E-211)				
703.283	am	(P-1058)	726.228	n	(P-1148)	726.228	am	(P-1511)	2008.Ap. C	am	(P-14859/91; PF-1743)	132.120	(P-7) (E-211)				
703.Ap. A	am	(P-1058)	726.229	n	(P-1148)	726.229	am	(P-1511)	2008.Ap. D	am	(P-14859/91; PF-1743)	132.125	(P-7) (E-211)				
720.110	am	(P-791)	726.230	n	(P-1148)	726.230	am	(P-1511)	2008.Ap. E	am	(P-14859/91; PF-1743)	132.130	(P-7) (E-211)				
720.111	am	(P-791)	726.231	n	(P-1148)	726.231	am	(P-1511)	2008.Ap. F	am	(P-14859/91; PF-1743)	132.135	(P-7) (E-211)				
721.102	am	(P-820)	726.232	n	(P-1148)	726.232	am	(P-1511)	2008.Ap. G	am	(P-14859/91; PF-1743)	132.140	(P-7) (E-211)				
721.103	am	(P-820)	726.233	n	(P-1148)	726.233	am	(P-1511)	2008.Ap. H	am	(P-14859/91; PF-1743)	132.145	(P-7) (E-211)				
721.104	am	(P-820)	726.234	n	(P-1148)	726.234	am	(P-1511)	2008.Ap. I	am	(P-14859/91; PF-1743)	132.150	(P-7) (E-211)				
721.106	am	(P-820)	726.235	n	(P-1148)	726.235	am	(P-1511)	2008.Ap. J	am	(P-14859/91; PF-1743)	132.155	(P-7) (E-211)				
721.120	am	(P-820)	726.236	n	(P-1148)	726.236	am	(P-1511)	2008.Ap. K	am	(P-14859/91; PF-1743)	132.160	(P-7) (E-211)				
721.131	am	(P-820)	726.237	n	(P-1148)	726.237	am	(P-1511)	2008.Ap. L	am	(P-14859/91; PF-1743)	132.165	(P-7) (E-211)				
721.132	am	(P-820)	726.238	n	(P-1148)	726.238	am	(P-1511)	2008.Ap. M	am	(P-14859/91; PF-1743)	132.170	(P-7) (E-211)				
722.110	am	(P-1112)	726.239	n	(P-1148)	726.239	am	(P-1511)	2008.Ap. N	am	(P-14859/91; PF-1743)	132.175	(P-7) (E-211)				
724.212	am	(P-1123)	726.240	n	(P-1148)	726.240	am	(P-1511)	2008.Ap. O	am	(P-14859/91; PF-1743)	132.Ap. A	(P-7) (E-211)				
724.440	am	(P-1123)	726.241	n	(P-1148)	726.241	am	(P-1511)	2008.Ap. P	am	(P-14859/91; PF-1743)	132.Ap. B	(P-7) (E-211)				
724.930	am	(P-1123)	726.242	n	(P-1148)	726.242	am	(P-1511)	3119.40	am	(P-11055/91; A-126)	Tb. A	(P-7) (E-211)				
724.935	am	(P-1123)	726.243	n	(P-1148)	726.243	am	(P-1511)				Tb. B	(P-7) (E-211)				
725.113	am	(P-875)	726.244	n	(P-1148)	726.244	am	(P-1511)				Tb. C	(P-7) (E-211)				
725.173	am	(P-875)	726.245	n	(P-1148)	726.245	am	(P-1511)									
725.212	am	(P-875)	726.246	n	(P-1148)	726.246	am	(P-1511)									
725.213	am	(P-875)	726.247	n	(P-1148)	726.247	am	(P-1511)									
725.440	am	(P-875)	726.248	n	(P-1148)	726.248	am	(P-1511)									
725.470	am	(P-875)	726.249	n	(P-1148)	726.249	am	(P-1511)									
725.935	am	(P-875)	726.250	n	(P-1148)	726.250	am	(P-1511)									
725.952	am	(P-875)	726.251	n	(P-1148)	726.251	am	(P-1511)									
726.130	r	(P-1148)	726.252	r	(P-1148)	726.252	am	(P-1511)									
726.131	r	(P-1148)	726.253	r	(P-1148)	726.253	am	(P-1511)									
726.132	r	(P-1148)	726.254	r	(P-1148)	726.254	am	(P-1511)									
726.133	r	(P-1148)	726.255	r	(P-1148)	726.255	am	(P-1511)									
726.134	r	(P-1148)	726.256	r	(P-1148)	726.256	am	(P-1511)									
726.135	r	(P-1148)	726.257	r	(P-1148)	726.257	am	(P-1511)									
726.140	am	(P-1148)	726.258	am	(P-1148)	726.258	am	(P-1511)									
726.200	n	(P-1148)	726.259	n	(P-1148)	726.259	am	(P-1511)									

